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MINORITY

OR

Proportional Representation.

ITS NATURE, AIMS, HISTORY, PROCESSES,

AND

PRACTICAL OPERATION.

BY

SALEM DUTCHER.

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PREFACE.

UNDER our existing electoral system, if there are, say, seven Representatives to be elected in a constituency of seven thousand voters, four thousand of whom belong to the A party, and three thousand to the B; the A voters will secure all seven Representatives, and the B voters have none. Equity demands, that as the voters stand as four is to three, the Representatives should stand in the same proportion, and to secure this equitable division is the main aim of Minority or Proportional Representation. The idea is, simply, that every party shall be represented in proportion to its strength. If it has half the vote it should have half the representation; if a third, a third; and so on. The origin and nature of the processes proposed for the accomplishment of this object, and the general history of Minority Representation, form the subject of this book. The purpose of the work is neither to criticise nor advocate, neither to decry Minority Representation on the one hand, nor on the other to hold

it up as the one thing needful to cure all the ills to which the body politic is heir, but simply to present, in a convenient form, the best information, foreign and domestic, upon a subject which has already occupied the attention of the British Parliament, the Danish Rigsraad, the Swiss Council, and the Congress and many of the Legislatures and State Conventions of the United States, and is daily rising into general interest and importance.

SALEM DUTCHER.

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MINORITY

OR

PROPORTIONAL REPRESENTATION.

CHAPTER I.

DEFECTS OF THE PRESENT ELECTORAL SYSTEM—THE NON-REPRESENTATION OF MINORITIES—UNFAIR APPORTIONMENT OF REPRESENTATIVES TO VOTERS—THE CRUSHING OUT OF ALL BUT TWO GREAT PARTIES—THE BALANCE OF POWER VOTE—EXCLUSION OF ABLE MEN FROM PUBLIC LIFE.

THE propriety of giving every party in the body politic a representation in the law-making body proportionate to its popular strength, has of late years attracted considerable attention. The idea is by no means a new one, and indeed it lies at the foundation of popular government that the representative body should be the constituent body in miniature; but in practice the principle has been much neglected. It is the exception rather than the rule for the law-making to be a correct portraiture of the popular body; and perhaps the annals of representative government might be searched in vain for such a legislature as that described by Mirabeau in his famous speech before the Constituent Assembly on the 30th of January, 1789, as "being to the nation what a chart is for the physical configuration of its soil, presenting a reduced picture of the people, their opinions, aspirations, and wishes, and bearing the relative proportion to the original precisely as a map brings before us mountains and dales, rivers and lakes, forests and plains, cities and towns." The occasion of this failure is to be found in the inadequacy of the means

by which representation is secured. The various interests in a body politic can only obtain the representation to which they may be severally entitled when the method of election permits them to obtain it; and such is not the case now. The main idea of the current electoral system is, that a country is to be laid off into certain geographical districts, each containing as nearly as possible the same number of electors, and that the person or persons receiving the highest number of votes in that district shall thereby be entitled to represent the same. Theoretically, this seems fair, but in practice injustice very often results. If we suppose 20,000 electors in a district entitled to elect one representative, the vote may, and frequently does, stand about thus: for A. 11,000; for B. 9,000. A. is, therefore, elected, and is said to represent the district, when in truth he represents only those who voted for him, and those who voted against him are not represented at all. Where there are many districts, the aggregate of these unrepresented minorities is enormous, amounting, in fact, on a rule which seems well established, to two-fifths of the entire vote cast. Given 5,000,000 votes cast, and under the present district system of election, 2,000,000 voters will not have a single representative in the law-making body! Another result of the present system may be seen if we suppose that the district is entitled to elect five representatives. The Democrats, say, cast 12,000 votes for their candidates, and the Republicans 8,000 for theirs; the result is that the five Democratic candidates are elected, and the Democrats monopolize the representation of the district. In a constituency of 20,000 voters entitled to five representatives, there should be one representative to every 4,000 voters. At this rate, there would be three Democratic and two Republican representatives, which would correctly portray the district in the law-making body. The non-representation of minorities and the over-representation of majorities are thus two well-defined incidents of the present electoral system; but there are others. It may be that in the case of the election last supposed the 12,000 who vote the Democratic ticket are not all Democrats, nor the 8,000 who vote the Republican ticket all Republicans. There may be those who prefer a ticket of their own, but knowing that they cannot render it successful under

existing circumstances, cast their votes with one or the other of the two great parties according as they may feel on the issues in contest. Thus the Democratic vote may be made up of 8,000 Democrats proper, 3,000 Labor Reformers, and 1,000 Temperance men; and the Republican vote of 4,000 Republicans proper, 3,000 Temperance men, and 1,000 Labor Reformers. The real political complexion of the constituency of 20,000 is, therefore, Democrats, 8,000; Republicans, 4,000; Labor Reformers, 4,000; and Temperance men, 4,000: and if every 4,000 voters could secure a representative, the district would body itself forth in the legislature with two Democratic representatives, one Republican, one Labor Reformer, and one Temperance. A fourth incident of the present electoral system is the balance of power vote. When men are about equally divided, a slight reinforcement this side or that will turn the scale. If A. receive 10,001 votes, and B. 10,000, A. is elected; and yet up to the ten-thousandth vote the contestants are on a par, and it is only the one vote over which decides the election for the 20,001 voters, and gives A. the seat. Elections have actually been carried in this way, and "the importance of a vote" has thus become a saying in politics. Ordinarily, of course, the difference between the successful and unsuccessful party is greater, but as a rule it is only a small per cent. of the entire vote which decides the election. As a few electors hold the event in their hands, there is a very great temptation to candidates or party managers to win the support of the balance of power or floating vote by corrupt means; and an equal inducement to venal electors to hold their votes for sale. Still another incident of the present electoral system is its tendency to exclude all but "popular" men from public life. The austere man, who will not depart a hair's-breadth from his convictions; the scholarly man, whose knowledge, though of vital importance to the state, is "caviare to the general;" the man out of accord, in a word, for any reason, with the majority in his district, has a very remote prospect of an election.

The main incidents of the present electoral system are therefore:

I. The non-representation of minorities;

II. The unfair apportionment of representatives to voters;

III. The narrowing down of elections into contests between two great parties, and the consequent crushing out of all minor differences of opinion;

IV. The excessive importance of a few votes in a close contest; and,

V. The virtual limitation of office to mediocre men.

These defects let us proceed to consider more at length before taking up the remedies proposed.

I. *The Non-Representation of Minorities.*

It is the theory of a representative government that public affairs are administered by representatives chosen by the people, but in practice the representatives are the choice of local majorities alone. Thus, A., we will suppose, is the Democratic candidate, and B. the Republican, before a constituency of, say, 23,000 voters. For A. 12,000 votes are cast, for B. 11,000; A. is elected, and is said to "represent the district," or the whole 23,000, when in truth he represents only the 12,000 who voted for him, and the 11,000 who voted against him are not represented at all. True, they are said to be represented, and perhaps where interests are the same or opinions agree, a Democratic representative may do almost as much for a Republican voter in his district as he will for a Democrat, and *vice versâ;* but let interests clash or opinions differ, and he becomes forthwith the friend of the one, and the foe of the other. Purely as a minority the minority receives no representation at all. Where there are many districts, and consequently many minorities, the aggregate of unrepresented voters becomes an astounding anomaly in a representative government. Two men out of every five, where there is anything like voting on a large scale, will be found absolutely without voice in the law-making body. As will be seen from the figures hereinafter to be given, the author of this work arrived, after some laborious computation, at the conviction that in all general elections, fifty-eight per cent. (.58) of the entire vote cast secured all the representatives voted for, and that

forty-two per cent. (.42) failed to elect a single member. After deducing this result, a "Memorandum on the History, Working, and Results of Cumulative Voting," prepared by Mr. Thomas Hare at the request of the English Government, was received through the kindness of Mr. Walter Morrison, M.P., and on page 14 of this paper appears a singular confirmation from Mr. Hare's own researches of the accuracy of the rule, the statement being that "the votes of all those who, disagreeing with the majority in their electoral district, are now, in Parliamentary elections, outvoted and left without representatives, *cannot ordinarily be taken at less than two-fifths of the whole electoral body*, or 400,000 out of 1,000,000 votes." It is a surprising circumstance that such a rule should have been simultaneously discovered in England and in the United States, and the fact of the rule puts in a strong light the wholesale nullification, so to speak, of minorities which is possible under the existing electoral system. The total vote cast in the elections for the Fortieth Congress, in 1866–7, twenty-six States then voting, was 4,005,573, and the sum of all the majorities, or the aggregate of the votes by which representatives were elected in the several districts, was 2,335,617, or 58 per cent. of the whole, leaving 1,669,956 voters, or 42 per cent., who failed to obtain a single spokesman in Congress. In the elections for the Forty-first Congress, 1868–9, the thirty-seven States then voting, it being the first general Congressional election since 1860, the total vote was 6,076,413; and once more 58 per cent., or 3,524,335 votes elected all the representatives, and 42 per cent., or 2,552,078, failed to secure even one. In the elections for the Forty-second Congress the total vote was 5,513,047; and once more the two-fifths rule applies, 58 per cent., or 3,186,508 votes, electing all the representatives, and 42 per cent., or 2,326,539, not one. Figures like these recall Mr. John Stuart Mill's indignant query in his work on Representative Government. "Is it not," he asks, "a very great grievance that in every Parliament a very numerous portion of the electors, willing and anxious to be represented, have no member in the House for whom they have voted?" Is it not a greater grievance, let us ask, that two and a half millions of American voters might, had that been physically possible, have

sat at any time since 1868 in the galleries of the Federal House without one of the 242 members on the floor representing a single man of the twenty-five hundred thousand electors before him?

But it may be said that they *are* represented—"the member represents the district." This idea has a wide acceptance. It has passed into the very texture of politics, and nothing is more common than for a man who voted against the Representative from his district to speak of himself, or be spoken of, as a constituent of that member. Of course, he is in no proper sense a constituent, having done nothing to constitute the Representative a member, but on the contrary, all in his power against. Yet he is called that member's constituent, and the member is termed his representative. Representation being simply agency, the idea is, that a man whom you do not wish to be your agent, and against whose appointment you have protested by all the means in your power, and who is, nevertheless, imposed upon you, *is* your agent. June 23d, 1870, the United States House of Representatives then having under consideration the general subject of representation, Mr. Marshall, of Illinois, touched upon this point thus:

"It is said sometimes that the man who is elected is the Representative of the entire people of his district. This is an absurdity. He is not in any proper sense the Representative of the elector who votes against him, but his antagonist. He is antagonistic to him in principle, in purpose, and in his ideas in regard to the mode in which the Government is to be administered. Under the present system, the minority cannot truly be said in any just sense to have any representation at all. They can go to the polls, it is true; but nine times out of ten the privilege is a mere mockery, and they vote knowing that their votes will give them no voice in the enactment of the laws by which they are to be governed. They vote knowing that their votes not only will not be counted on the side which they favor, but that they themselves will be counted in making up the representation for those whose principles they disapprove of."

On the same point Mr. Garfield, of Ohio, in the same debate said:

"Every one knows that between a Republican Representative and his Democratic constituents, and between a Democratic Representative and his Republican constituents, there is no such political relationship as should subsist between a Representative and his constituents."

The nature of such relationship as does exist is readily indicated. If the Representative can forget that his suitor voted

against him, and if to help him is not to injure the interests or contravene the opinions of those who elected him, and lastly, if it may appear that at next election the suitor is likely to change his politics, and give his benefactor a vote—it is possible that a Democratic Representative may act a Representative's part to a Republican "constituent," and *vice versâ*. Let the voter sue *in formâ pauperis*, and if there be none of a thousand customary reasons to the contrary, it is not altogether impossible but that the Representative may incline his ear. Whatever he does, however, is pure matter of grace and favor, so known and understood.

But it may be said the minority voter has yet another chance. There must be in the representative body some member of his political persuasion, and to him he may appeal. Certainly it is within the power of the voter so to do, but in the first place he does not know the member, and the member does not know him. When the acquaintance is achieved, the compelling force of that relation which should exist between the Representative and voter is found lacking. The member knows that the voter did not assist him at the last election, and cannot at the next. The voter discovers that the member is ignorant of the opinions, and careless as to the interests he is desired to have in charge, or where neither ignorant nor careless, is so much engaged with the affairs of his own immediate constituents as to have no time to bestow elsewhere. And lastly, even if this obstacle were overcome, the only good the distant member can do, is in individual cases, the cases of the few who write to, or the fewer still who call upon him, and is clogged by a lack of any other local knowledge than such as the particular instance may cursorily convey. Fancy, for instance, a member from Maryland, where the majorities are all Democratic, rising to advocate a measure desired by a minority in some district in Maine, where the majorities are all Republican. The first thought of the House would no doubt be that the Maryland man did not know what he was talking about, and in all probability this would be quite true. Having no local knowledge, save such as he might have obtained from interested parties, whose account would be naturally one-sided, he would infallibly be worsted by the Maine member, and the last state of

that minority be worse than the first. A Maryland member advocating the interests of a Maine minority is where Mr. Mill, in his work "On Representative Government," puts the champion of an English bill:

> "The explaining and defending of a bill and of its various provisions is scarcely ever performed by the person from whose mind they emanated, who probably has not a seat in the House. Their defence rests upon some minister or member of Parliament who did not frame them, who is dependent on cramming for all his arguments but those which are perfectly obvious, who does not know the full strength of his case, nor the best reasons by which to support it, and is wholly incapable of meeting unforeseen objections."

The theories of extraneous representation and of the member representing the district to the contrary notwithstanding, we may take it that for all practical purposes minorities are unrepresented. How great the aggregate of the unrepresented, may be seen from some figures. Subjoined are three tables, showing the aggregates respectively of the majorities and minorities in the several districts of each State in the elections for the Fortieth, the Forty-first, and the Forty-second Congresses. Scattering and independent votes are not computed, and the composition of the three successive Houses is given as appearing on the vote as cast. Expulsions and contested elections very slightly vary the political complexion of each House, and some few thousand votes were cast outside of strict party lines; but with these exceptions, the tables, it is thought, will be found to present a minutely accurate view of the Congressional elections throughout the United States since 1866. The method of computation carried through all the tables is this: Taking California, for instance, in 1866–7, the vote stood in the first district, Democratic, 18,793; Republican, 13,989; in the second, Democratic, 14,786; Republican, 16,053; and in the third, Democratic, 14,767; Republican, 14,394. In the first and third districts the Democrats elected the Representative, and the sum of the Democratic vote in those districts is the number of Democrats who obtained representation at that election. In the second district, where the Republican candidate for Representative was elected, the Democratic vote is the number of Democratic voters who were unrepresented in Congress. Similarly, the Republicans represented

are those who elected the Representative in the second district; and the unrepresented Republicans are those who voted in the first and third districts. This method is carried through all the States at each election, with the astounding results apparent in the tables.

I.

A Table of the Voters Represented and Unrepresented in the Fortieth Congress.

STATES.	REPRESENTED.				UNREPRESENTED.	
	Democratic.	Members.	Republican.	Members.	Democratic.	Republican.
California	33,560	2	16,053	1	14,786	28,383
Connecticut	39,807	3	9,723	1	7,827	36,517
Delaware	9,033	1				8,553
Illinois	49,280	3	158,017	10	98,305	43,842
Indiana	32,597	3	129,567	8	113,160	38,635
Iowa			90,936	6	55,556	
Kansas			19,202	1	8,106	
Kentucky	75,621	9				30,549
Maine			68,714	5	41,871	
Maryland	33,176	4	11,252	1	9,230	15,666
Massachusetts			89,753	10	26,722	
Michigan			97,937	6	67,341	
Minnesota			25,983	2	16,575	
Missouri	4,637	1	58,802	8	38,381	3,571
Nevada			5,047	1	4,295	
New Hampshire			35,797	3	32,798	
New Jersey	29,593	2	39,111	3	34,354	26,431
New York	135,269	11	227,443	20	189,805	89,443
Ohio	41,298	3	217,878	16	173,103	35,165
Oregon			10,362	1	9,809	
Pennsylvania	86,406	6	242,732	18	206,945	61,058
Rhode Island			7,304	2	1,497	
Tennessee			67,457	8	22,157	
Vermont			29,936	3	9,651	
West Virginia			23,508	3	17,068	
Wisconsin	12,636	1	69,290	5	42,773	10,028
Total	583,813	49	1,751,804	142	1,242,115	427,841

Voters Represented	2,335,617 = .58
Voters Unrepresented	1,669,956 = .42
Grand Total	4,005,573

II.

A Table of the Voters Represented and Unrepresented in the Forty-first Congress.

STATES.	REPRESENTED.				UNREPRESENTED.	
	Democratic.	Members.	Republican.	Members.	Democratic.	Republican.
Alabama	10,979	2	56,362	4	39,412	7,769
Arkansas	6,518	1	13,698	2	11,264	5,332
California	39,410	2	18,264	1	15,124	35,577
Connecticut	13,075	1	33,931	3	30,372	11,915
Delaware	10,961	1				7,636
Florida			14,170	1	7,852	
Georgia	32,959	3	55,606	4	30,639	28,450
Illinois	74,536	4	194,084	9	126,149	63,579
Indiana	69,142	4	110,115	7	101,738	60,391
Iowa			114,831	6	76,242	
Kansas			29,324	1	13,969	
Kentucky	112,071	9				35,921
Louisiana	76,479	5				33,260
Maine			74,826	5	57,163	
Maryland	48,570	5				24,472
Massachusetts			131,493	10	58,550	
Michigan			126,166	6	99,316	
Minnesota	13,506	1	23,493	1	14,581	19,824
Mississippi			71,746	5	37,623	
Missouri	14,987	2	78,267	7	55,229	13,779
Nebraska			8,718	1	5,992	
Nevada			6,230	1	5,349	
New Hampshire			35,905	3	31,933	
New Jersey	55,094	3	31,660	2	27,928	47,507
New York	216,356	13	279,381	18	211,625	133,825
North Carolina	22,539	2	74,552	5	61,558	21,432
Ohio	88,738	7	188,847	12	162,401	74,487
Oregon	11,789	1				10,580
Pennsylvania	121,218	8	253,723	16	217,551	93,075
Rhode Island			12,127	2	6,725	
South Carolina	25,872	1	43,312	3	19,315	17,573
Tennessee	6,533	1	45,624	7	15,213	9,569
Texas	6,343	1	25,875	3	25,875	8,846
Vermont			40,511	3	15,119	
Virginia	72,551	5	42,115	3	59,480	42,880
West Virginia			26,930	3	22,051	
Wisconsin	17,688	1	94,535	5	67,916	13,205
Total	1,167,914	83	2,356,421	159	1,731,254	820,824

Total Represented	3,524,335 — .58
Total Unrepresented	2,552,078 — .42
Grand Total	6,076,413

III.

A Table of the Voters Represented and Unrepresented in the Forty-second Congress.

States.	Represented.				Unrepresented.	
	Democratic.	Members.	Republican.	Members.	Democratic.	Republican.
Alabama	45,250	3	56,246	3	32,620	18,059
Arkansas	13,640	2	11,203	1	6,661	11,170
California			62,336	3	56,853	
Connecticut	13,760	1	34,696	3	32,958	12,576
Delaware	12,434	1				10,001
Florida			12,439	1	11,812	
Georgia	51,255	4	35,794	3	32,157	26,988
Illinois	81,657	6	87,923	7	51,943	68,648
Indiana	82,730	5	83,876	6	65,861	69,405
Iowa			98,632	6	63,636	
Kansas			40,017	1	20,841	
Kentucky	88,944	9				57,351
Louisiana			65,992	5	38,226	
Maine			54,454	5	44,471	
Maryland	76,595	5				57,727
Massachusetts			87,005	10	48,482	
Michigan	16,618	1	81,269	5	69,115	14,879
Minnesota			36,739	2	29,395	
Mississippi			71,748	5	37,263	
Missouri	76,719	7	33,333	2	30,712	26,689
Nebraska			12,375	1	7,967	
Nevada	6,821	1				6,491
New Hampshire	34,344	3				33,013
New Jersey	33,906	2	50,651	3	42,467	29,775
New York	237,668	16	214,871	15	170,485	148,313
North Carolina*	63,991	5	25,928	2	24,457	57,099
Ohio	67,114	5	161,775	14	138,898	57,732
Oregon	11,588	1				11,245
Pennsylvania	134,735	11	151,922	13	132,430	113,785
Rhode Island			9,498	2	2,349	
South Carolina			74,207	4	54,777	
Tennessee	60,694	6	14,835	2	13,798	23,653
Texas	45,443	3	18,407	1	17,082	25,364
Vermont			31,621	3	9,916	
Virginia	52,422	5	42,265	3	31,548	40,202
West Virginia	20,568	2	9,011	1	8,098	17,738
Wisconsin	31,574	2	55,270	4	39,052	22,306
Total	1,360,170	106	1,826,338	136	1,366,330	960,209

Total Represented	3,186,508 — .58
Total Unrepresented	2,326,539 — .42
Grand Total	5,513,047

* Unofficial returns.

The amazing thing in these tables is the heavy percentage of unrepresented voters they uniformly return. Whether the vote be that of a part of the States, as that for the Fortieth Congress, or of all the States, as in case of the Forty-first and Forty-second Congresses; whether taken in the year of a Presidential election, as in 1868, or in ordinary years, as in 1866–7, and in 1870–1—the result is the same: fifty-eight (58) per cent. of the voters secure all the representation, and forty-two (42) per cent. have none; out of every 100 men who approach the polls, 60 make their suffrage count, and 40 might as well not vote at all; or, to reduce it to its last analysis, our present electoral system disfranchises 2 men out of 5. In State as well as in Congressional elections, the same rule will be found to prevail. Taking New York, for instance, the following results are obtained:

A Table of the Voters Represented and Unrepresented in the New York Legislature in 1869 and in 1871.

LEGISLATURE.	Total Vote.	Represented.	Per cent.	Unrepresented.	Per cent.
Senate, 1869 .	646,672	382,308	.59	264,364	.41
Assembly, 1869.	800,594	464,730	.58	335,864	.42
Senate, 1871 .	602,751	356,785	.59	245,966	.41
Assembly, 1871.	718,756	423,554	.59	295,202	.41

As a prominent incident of the present electoral system, we have thus a non-representation of minorities so great as to furnish this general rule:

Given any general or extended election of representatives, and two-fifths of those voting at such election will not elect a single representative.

When such a rule is possible, and when it works out such a result as we have seen it produce in the case of the elections for the Forty-first Congress, the absolute exclusion from representation of 2,500,000 voters at one swoop, it is not surprising we should hear such an opinion of the existing electoral system as

that delivered June 23d, 1870, in the United States House of Representatives, by Mr. Garfield, of Ohio:

"In my judgment it is the weak point in the theory of representative government as now organized and administered, that a large portion of the voting people are permanently disfranchised. . . . Take my own district as an example; I have never been elected by less than nine thousand majority. Sometimes the majority has exceeded twelve thousand. There are about ten thousand Democratic voters in my district, and they have been voting there for the last forty years, without any more hope of having a Representative on this floor than of having one in the Commons of Great Britain."

Nor is it at all wonderful that this same two-fifths rule, which Mr. Hare finds equally of force in England, should call forth this protest from Mr. Mill against its operation there:

"The pure idea of democracy, according to its definition, is the government of the whole people by the whole people, equally represented. Democracy, as commonly received and hitherto practised, is the government of the whole people by a mere majority of the whole people, exclusively represented. The former is synonymous with the equality of all citizens; the latter, strangely confounded with it, is a government of privilege in favor of a numerical majority who alone possess practically any voice in the State. This is the inevitable consequence of the manner in which votes are now taken to the complete disfranchisement of minorities."

II. *The Unfair Apportionment of Representatives to Voters.*

The non-representation of minorities was early brought to the attention of Congress in connection with an unfair apportionment of representatives to voters. For over half a century after the government of the United States went into operation under the Constitution, Congress failed to exercise its power to prescribe the manner in which the States shall elect their representatives, and in default of any such general rule, each State regulated the matter for itself. Some, as for instance Virginia, adopted the "single district" system from the beginning, dividing their territory into a number of political divisions equal to the number of representatives to whom they might at the time be entitled, and allowing the electors in each division to elect one representative, but in most of the States the "general ticket" system prevailed, the State forming but one district, and the electors voting for the whole number of representatives allowed. The evils of this system were notorious.

The majority party in the State, no matter by how small a vote in the majority, secured all the representatives, and the minority party, no matter how nearly equal in numbers to the majority, had none. The disfranchisement of the minority was absolute, and as early as 1800 a proposition was made in Congress to redress the wrong, by requiring the election of representatives to be by the "single district" system. From that time to 1842, the matter was discussed again and again in Congress and in the State Legislatures, but not until the Act of Congress of June 25th, 1842, "for the apportionment of Representatives among the several States according to the Sixth Census," did the change become law. In section 2 of that statute it was provided—

> "That in every case where a State is entitled to more than one Representative, the number to which each State shall be entitled under this apportionment shall be elected by districts composed of contiguous territory equal in amount to the number of Representatives to which said State may be entitled, no one district electing more than one Representative."

From this time the election of Representatives was conducted under the single district system, but a resort to the general ticket system having been attempted in California and in Minnesota about 1860, the old rule was reaffirmed by Congress in "An Act in relation to the Election of Representatives to Congress by Single Districts," approved July 14, 1862, which provides—

> "That in each State entitled, in the next and any succeeding Congress, to more than one Representative, the number to which such State is or may be hereafter entitled shall be elected by districts composed of contiguous territory, equal in number to the number of Representatives to which said State may be entitled in the Congress for which said election is held, no one district electing more than one Representative."

—and in the act for the apportionment of representatives under the ninth census, approved February 2, 1872, the same general provision appears.

That the adoption of the single district system in Congressional elections was a great improvement must sufficiently appear from what has been said, but though the absolute non-representation of minorities was thereby prevented, the evil of an unfair apportionment of representatives to voters remains untouched. It is no longer possible for the majority in each State to monopolize

the representation of that State, but so much of the old evil remains, that in thirteen out of the thirty-two States which have more than one Representative the majority in the Congressional elections of 1870–1 secured all the Representatives, and in eleven of the remaining twenty-nine States the majority elects more and the minority fewer Representatives than are proportionately due. The main occasion of this unfair apportionment is the partisan practice of "gerrymandering." In 1812, when Elbridge Gerry was Governor of Massachusetts, the then ruling party, the Democratic, or, as it was at that time called, the Republican, party passed the famous act of Feb. 12, 1812, in order to perpetuate its power. This provided for a new division of the State into senatorial districts, so contrived that in as many districts as possible the Republicans should outnumber their political opponents, the Federalists. In pursuance of this purpose, all natural lines were disregarded, and one district in particular was made up of such disjointed sections as to present upon the map a rude resemblance to some monster. The story runs that a mad wag of a Federalist added with his pencil claws, head, and tail, and said: "There! that will do for a Salamander." "A Gerrymander, rather," said a bystander; and the jest passed from that into our politics. The efficacy of the scheme appeared from the first election under it, 50,164 Democratic voters electing twenty-nine Senators against eleven elected by 51,766 Federalists; and the district which gave rise to the name "gerrymander" (Essex, the county of Governor Gerry's residence) returning 3 Democratic and 2 Federalist Senators, instead of 5 Federalist, as customary theretofore. In 1814 the law was repealed, and many political squibs of the day celebrated the death and burial of the monster, but as events proved, the influence of the example was not lost. On the passage by Congress of the single district act of 1842, the "gerrymander" was remembered, and from that time to this the principle has been all but universally applied in the creation of voting districts, Congressional, State, and even county and municipal. An able writer in the *American Law Review* for 1872, shows its adoption and operation abroad. In Switzerland the trick has long been at home, and in a report made in 1869 by the Commission appointed by the Grand Coun-

cil of Neuchâtel, for a revision of the electoral law of that canton, the following passage occurs:

"The history of free countries in all times, including Switzerland and our own canton, is fertile in examples of this expedient—a device so common that we hardly venture to give it its true name. But it is, in fact, fraud, jobbery, and malversation in office. The government thereby misuses powers conferred upon it, in order that it may secure a just representation, to pervert and control the result of the election; it takes advantage of functions established for the good of the whole to further the interests of a part. For this evil, inherent in the district system, no remedy has ever been found."

Under the Second Empire the same practice was much resorted to, Napoleon III. having no doubt acquainted himself with its capabilities during his sojourn in the United States. The country parts of France being almost invariably Napoleonic, and the cities and towns as commonly Republican, the imperial apportionment carved up the latter into several portions, and attached to each, in order to form an electoral district, a considerable extent of the rural region lying round about. Thus, under the decree of December 28, 1858, the department Du Nord, returning five deputies, was cut up in a manner which can only be described as out-gerrymandering the original gerrymander. In that, the various parts of the district did at least join, though in a mangled and disjointed manner; but here, four out of the five districts were made up of dismembered fragments, between each of which some other fragment of some other dismembered district intervened. Between the first and second parts of the third district—which contained the disaffected municipality of Lille, whence the gerrymander—intervened the first part of the second district; between the second and third parts of the third district intervened the second part of the fourth district, and so on. In this way the Republican majority in the Lille arrondissement was overcome, and similar tactics to the same end were resorted to with Lyons, Marseilles, Bordeaux, Nismes, Strasbourg, Clermont, and other anti-imperial strongholds. Paris itself was subjected to like treatment, and in 1864 a map, printed in colors ostensibly to show electors their several "circumscriptions" or precincts, but really to manifest how the Empire had gerrymandered the city, was published, but suppressed by the police. In England the gerrymander does not obtain, but the results aimed

at in that process are substantially attained by the lack of any provision for an apportionment of representatives proportionate to voters. Instances of the operations of "gerrymandering" in the United States might be given *ad infinitum*. No party seems ever to have had virtue enough to refrain from yielding to the temptation afforded by it to sustain itself in power. At each recurring apportionment the dominant faction has so districted the territory committed to its charge, that in many cases the minority is as destitute of representation as under the old general ticket system, and even where it has representation, is fobbed off with less than its fair share. Massachusetts constantly returns all ten of her Representatives Republicans, though on the popular vote the Democrats stand to the Republicans as 3 to 7; and Kentucky as invariably has her nine members Democrats, though the Republican is to the Democratic vote as 4 to 5. To the Forty-second Congress Ohio sent 14 Republican and but 5 Democratic Representatives, the popular vote standing 9 Democrats to 10 Republicans; and Tennessee sent 6 Democratic and 2 Republican members, the vote being as 5 to 3. Like unfair apportionments are to be found almost without number in State, county, and municipal elections, and there is even one miracle of "gerrymandering," by which the majority on the popular vote failed to obtain a single Representative in the legislative body! In the election in the Territory of Wyoming, in 1870, the vote stood, Republican, 1,666; Democratic, 1,439; and yet the Territorial Legislature of 22 members was unanimously Democratic. The legislative election in California in 1868 affords an instance scarcely less gross. The vote stood, Republicans, 54,583, and Democrats, 54,077; and the Legislature stood, 97 Democrats to but 23 Republicans; and so examples might be multiplied. Subjoined is—

A Table of the Actual and Proportional Representation in Three Congresses—1866–71.

States.	40th Congress.				41st Congress.				42d Congress.			
	Actual.		Proportional.		Actual.		Proportional.		Actual.		Proportional.	
	D.	R.	D.	R.	D.	R.	D.	R.	D.	R.	D.	R.
Alabama	—	—	—	—	2	4	3	3	3	3	3	3
Arkansas	—	—	—	—	1	2	1	2	2	1	1	2
California	2	1	2	1	2	1	2	1	—	3	1	2
Connecticut	3	1	2	2	1	3	2	2	1	3	2	2
Delaware	1	—	1	—	1	—	—	1	1	—	1	—
Florida	—	—	—	—	—	1	—	1	—	1	—	1
Georgia	—	—	—	—	3	4	3	4	4	3	4	3
Illinois	3	10	5	8	4	9	6	7	6	7	6	7
Indiana	3	8	5	6	4	7	6	5	5	6	5	6
Iowa	—	6	2	4	—	6	2	4	—	6	2	4
Kansas	—	1	—	1	—	1	—	1	—	1	—	1
Kentucky	9	—	6	3	9	—	7	2	9	—	5	4
Louisiana	—	—	—	—	5	—	4	1	—	5	2	3
Maine	—	5	2	3	—	5	2	3	—	5	2	3
Maryland	4	1	3	2	5	—	3	2	5	—	3	2
Massachusetts	—	10	2	8	—	10	3	7	—	10	4	6
Michigan	—	6	2	4	—	6	3	3	1	5	2	4
Minnesota	—	2	1	1	1	1	1	1	—	2	1	1
Mississippi	—	—	—	—	—	5	2	3	—	5	2	3
Missouri	1	8	4	5	2	7	4	5	7	2	6	3
Nebraska	—	—	—	—	—	1	—	1	—	1	—	1
Nevada	—	1	—	1	—	1	—	1	1	—	1	—
New Hampshire	—	3	1	2	—	3	1	2	3	—	2	1
New Jersey	2	3	2	3	3	2	3	2	2	3	2	3
New York	11	20	16	15	13	18	16	15	16	15	16	15
North Carolina	—	—	—	—	2	5	3	4	5	2	4	3
Ohio	3	16	9	10	7	12	9	10	5	14	9	10
Oregon	—	1	—	1	1	—	1	—	1	—	1	—
Pennsylvania	6	18	12	12	8	16	12	12	11	13	12	12
Rhode Island	—	2	—	2	—	2	1	1	—	2	—	2
South Carolina	—	—	—	—	1	3	2	2	—	4	2	2
Tennessee	—	8	2	6	1	7	2	6	6	2	5	3
Texas	—	—	—	—	1	3	2	2	3	1	2	2
Vermont	—	3	2	1	—	3	1	2	—	3	1	2
Virginia	—	—	—	—	5	3	5	3	5	3	5	3
West Virginia	—	3	1	2	—	3	1	2	2	1	2	1
Wisconsin	1	5	2	4	1	5	2	4	2	4	3	3
	49	142	84	107	83	159	115	127	106	136	119	123
Majority	—	93	—	23	—	76	—	12	—	20	—	4

Had representation at these elections been proportioned to votes, the Republican majority in the Fortieth Congress would have been but 23 instead of 93; in the Forty-first but 12 instead of 76; and in the Forty-second but 4 instead of 20. Further, had there been such a fair apportionment, the Republican party would not have had either in the Fortieth or the Forty-first Congresses that two-thirds vote which is the supreme power of legislation under the Constitution of the United States. By that instrument a vote of two-thirds of the members of the House of Representatives is sufficient to expel a member, override a veto, propose amendments to the Constitution, and remove the political disabilities imposed on certain classes of citizens, for their participation in the civil war of 1861–5. The greatest of these powers, overriding the vetoes and proposing amendments, were repeatedly exercised by the Republican two-thirds in the House, and, as another two-thirds of the same political faith co-operated in the Senate, the impress of this action is deep upon American history. The very nature of the government of the United States was changed, and it is not too much to say that for a generation the influence of the Fortieth and Forty-first Congresses must be actively felt in our affairs, whether for good or evil time can alone determine. Certain it is, that a change so fundamental, an influence so far-reaching and momentous, is not the work, as it assumes to be, of two-thirds of the American people represented in Congress. The vote as it was cast in the eventful epoch, 1866–71, the percentage which each party had of that vote, and the percentage of representation it attained, let us here subjoin:

	VOTE.		PERCENTAGE.			
	Republican.	Democratic.	of Votes. R.	of Votes. D.	of Members. R.	of Members. D.
Fortieth Congress . .	2,179,645	1,825,928	.54	.46	.74	.26
Forty-first Congress . .	3,177,245	2,899,168	.52	.48	.67	.33
Forty-second Congress .	2,786,547	2,726,500	.51	.49	.56	.44

Having 46 per cent. of the entire vote in the elections for the Fortieth Congress, the Democrats have but 26 per cent. of the

Representations in that body; but 33 per cent. in the Forty-first Congress, though having 48 per cent. of the vote, and but 44 per cent. in the Forty-second Congress, with 49 per cent. of the vote. Contrariwise, the Republicans have uniformly a higher ratio of Representation than of votes, not because they were Republicans, but because, being the majority party in most of the States, they "gerrymandered" the same to suit. To put in another form the inequalities here tabulated in percentages, let us consider the number of votes necessary at each of these elections to secure a Representative, dividing the party vote by the number of party Representatives to obtain that result.

VOTES REQUIRED TO ELECT A REPRESENTATIVE.

	REPUBLICAN.	DEMOCRATIC.
Fortieth Congress	16,350	37,263
Forty-first Congress	19,982	34,930
Forty-second Congress	20,489	25,722

Possibly it may be thought that these very great discrepancies are due less to the present electoral system than to the disturbed state of the South from 1866 to 1871, the reconstruction question, the extended disfranchisements by law in some of the States, etc., but it answers this to say that the gravest discrepancy of all occurs in the elections for the Fortieth Congress, when only the peaceful and undisturbed States of the North voted, and when the question of reconstruction was not yet vexed, and further that in State and municipal elections like disproportions appear. How in State elections inequality of representation prevails, may be seen from the subjoined comparison of the popular vote, and political division of the Legislature in some of the States in 1870–71:

STATES.	VOTE.		MEMBERS.			
			Actual.		Proportionate.	
	Republican.	Democratic.	Rep.	Dem.	Rep.	Dem.
Arkansas	28,190	25,488	78	30	57	51
Delaware	9,982	12,458	0	30	13	17
Iowa	108,801	67,547	120	30	92	58
Kansas	40,666	20,496	100	18	79	39
Kentucky	89,088	126,059	15	123	57	81
Maryland	58,824	73,959	13	94	47	60
Vermont	33,367	12,058	236	29	195	70

In Arkansas, with parties all but even on the popular vote, we find one party over twice as strong as its opponent in the Legislature; in Delaware, the party which has two-fifths of the popular vote has not a single Representative in the Legislature, and so on. In municipalities the same general inequalities will be found, as the subjoined exhibit of elections in 1870–71 will manifest:

CITIES.	VOTE.		COUNCILMEN.			
			Actual.		Proportionate.	
	Republican.	Democratic.	Rep.	Dem.	Rep.	Dem.
Mobile	3,113	4,759	0	32	12	20
New Haven	2,732	3,173	28	14	16	26
Chicago	12,955	10,493	29	11	22	18
Baltimore	10,973	18,311	1	29	11	19
Boston	6,231	9,838	42	34	29	47
St. Louis	8,910	10,944	12	12	10	14
Philadelphia	60,629	51,549	73	26	53	46
Richmond, Va.	4,979	5,168	4	26	14	16

In Mobile, the Republicans, with a vote equal to some three-eighths of the entire poll, do not have a single representative in the city council; in New Haven, the Democrats, who outnumber the Republicans by a sixth, have but a third of the aldermen; in Boston, the Democrats, though outnumbering the Republicans a full third on the popular vote, have but two-fifths of the

Council; in Baltimore, the Republicans, though standing to the Democrats as eleven to eighteen, have but one-thirtieth of the aldermen; and so on through the list.

Everywhere it is apparent that under the existing electoral system there is an unfair apportionment of representatives to voters. If the vote stands as 3 to 4, the representatives do not stand as 3 to 4, too; the constituent body is not reflected in the representative body; the laws are not made by the community in miniature.

III. *The Narrowing Down of Elections into Contests between Two Great Parties, and the consequent Crushing Out of all Minor Differences of Opinion.*

The narrowing down of elections into contests between two great parties, and the consequent crushing out of all minor differences of opinion, is a direct result of the current unfair apportionment of representatives to voters, which results from the present method of election. The party having the highest number of votes secures sometimes all the representation and almost invariably a disproportionately large share of it. As a consequence, the competition to be the largest party is exceedingly great, and the issues in contest are narrowed down and narrowed down until but some one great question is left, and on one side or the other of this every man is forced to take his place. If there are, say, 8,000 Democrats, 6,000 Republicans, 4,000 Labor Reformers, and 2,000 Temperance men, making up a constituency of 20,000 entitled to elect 10 Representatives, the operation of the existing electoral system on the eve of an election is this: the Republicans, as needing no very great increase of strength to outnumber the Democrats, and thereby secure the tempting prize of 10 Representatives, seek to win votes from the hopeless Labor Reform and Temperance minorities. Feeling their impotence in themselves, these minorities show signs of responding to the overture. The Democrats at once take the alarm, and in turn seek to win votes from their ranks. The Republicans redouble their efforts; each of the two great parties strains every nerve to win

over the two lesser parties, and these latter, feeling their weakness, are generally open to the promises made them by those bidding for their votes. Election day comes, and it is found that the vote stands, Democrats, 11,000; Republicans, 9,000; there being no Labor Reform or Temperance votes cast as such. The Democrats, of course, elect all 10 Representatives; and the operation of the system is thus, first to crush out all but two great parties, and then to disfranchise the lesser of these two. He who may fancy neither is forced to join one or the other under a penalty of absolutely throwing away his vote. The tendency of the times being to a multiplicity of parties, this iron rule is severely felt. The growth of population has diversified the opinions of men; the increase of wealth has given rise to many new material interests. It is felt that there are more than just two ways of looking at a political question, and that other than purely political questions may very well be erected into party issues. For years these views have been at work, and some of their results have been of late signally manifest. In England men are dropping away from the great Whig and Tory, or Liberal and Conservative, parties, and forming themselves into Reform, Workingmen, Secularist, Republican, and other new organizations. In France the old party division of Republican and Monarchist was broken up in 1871 by the rise of the Commune, symbolizing a new party, based not so much on theories of government as on the nature of property, social relations, and the claims of labor. In the United States the labor question has also been rising into importance since 1865, and for years the great railroad interest has been shaping itself into a political force. Once a "bolt" in our Congressional elections was a rarity, and the election of a member outside of strict party lines all but unknown; but in 1870–1 there were new party tickets in as many as forty-six districts, and new State tickets in Massachusetts, New Hampshire, New York, Ohio, Pennsylvania, and Michigan. Success waited on but three of these fifty-two efforts, but that, knowing the desperate nature of the venture, so many efforts were made, is a plain demonstration of a general predisposition to revolt at the old two-party rule. It seems felt that whenever there is a law-making body of, say, 100 members, every one-hundredth part of the body politic should

have the right and the power to elect one member, and not, as now, a fifth, or fourth, or even a third, part of the people, be forced to forego a political identity, and merge themselves into some greater organization.

In his "Parliamentary Government," Earl Grey says:

"One of the most remarkable peculiarities of the British House of Commons, as compared with other representative bodies, is, that it has always had within its walls members representing most of the different classes of society, and of the various and conflicting opinions and interests to be found in the nation. Much of the acknowledged success with which the House of Commons has played its part in the government of the country has been attributed (I believe most justly) to this peculiarity."

John Stuart Mill takes a similar view of the value of a complete representation of the constituent in the law-making body:

"In every government there is some power stronger than all the rest, and the power which is strongest tends perpetually to become the sole power. Partly by intention and partly unconsciously, it is ever striving to make all other things bend to itself, and is not content while there is anything which makes permanent head against it—any influence not in agreement with its spirit. Yet, if it succeeds in suppressing all rival influences, and moulding everything after its own model, improvement in that country is at an end, and decline commences. Human improvement is a product of many factors, and no power ever yet constituted among mankind includes them all. Even the most beneficent power only contains in itself some of the requisites of good, and the remainder, if progress is to continue, must be derived from some other source. No community has ever long continued progressive but while a conflict was going on between the strongest power in the community and some rival power—between the spiritual and temporal authorities, the military or territorial and the industrious classes, the king and the people, the orthodox and religious reformers. When the victory on either side was so complete as to put an end to the strife, and no other conflict took its place, first stagnation followed, and then decay."

The evil of the forced and unnatural uniformity brought about in American politics by the crushing out of minor parties, is too apparent to need illustration. There are interests such as Free Trade, Temperance, and Labor Reform which number their friends by hundreds of thousands, and yet have no advocate in Congress, and but here and there some lone representative in the State Legislatures.

IV. The Excessive Importance of a Few Votes in a Close Contest.

In most legislative bodies the presiding officer has a casting vote, which determines the question at issue when the house is equally divided thereon. Under the existing electoral system a very few voters may, and often do, possess this great power without the justification for it which exists in the case of the presiding officer. Where parties are about evenly divided, everything turns on the balance of power, or floating vote, and superhuman efforts are put forth by party managers to secure it. The voters who are supposed to be undecided, and on whose decision it is known that the result of the election hinges, are "approached" in every possible way. Any one man among them who has a little following of his own, rises into extreme importance; and there is only too much reason to believe that in closely contested States and districts there are small factions expressly built up and maintained for purposes of sale. Further than this, the vital importance of a few votes in a close contest is a main occasion of such election frauds as illegal registration, repeating, ballot-box stuffing, false counts, and so on. To be successful, these crimes must be perpetrated on a small scale, and are hence admirably adapted to close elections where but a few votes here or there decide the day. Any great fraud, such as would result in showing that 20,000 men had voted in a district where but 16,000 had been registered, would defeat itself; but when the swindle is committed in a small way, so that the poll would appear to be 15,200 votes, repeating, ballot-box stuffing, or any other such device, might with some immunity from detection be resorted to, so that where the true vote was, say, 7,550 Republican and 7,450 Democratic, 200 illegal votes could be added to the latter vote, and put that party in the majority by 7,650 against the 7,550 for its opponent. Fraud such as this, to a less extent than one per cent. of the total vote, would almost defy detection, and the tremendous value of a few votes in a heated election under the present electoral system almost invites an attempt at its perpetration. At the

Congressional election of 1870, in Pennsylvania, the vote and majority stood thus in three districts:

DISTRICT.	Democratic.	Republican.	Majority.
Sixteenth	12,859	12,844	15 Dem.
Seventeenth	10,335	10,324	11 "
Eighteenth	13,205	13,178	27 "
Total	36,399	36,346	53

For the 25,703 voters in the XVIth district, 15 voters settled the question of who should be the Representative; in the XVIIth, the same question was settled for 20,659 voters by 11; and in the XVIIIth, for 26,383 voters by 27; or 53 voters elected the Representatives in Congress of 72,745 voters. Taking it that the vote was a fair one, this puts in a strong light the tremendous power given a few voters under the existing electoral system, and may prove the key to the gross election frauds of the time. The many are honest, but if even the few are corrupt, the honest many are made dependent on the dishonest and purchasable few. And how very few venal voters are necessary, the above exhibit shows. It tests even the power of decimals to represent the ruling power in the total vote of 72,745 in the three districts, but it is about .0007 of that vote. If we suppose that in such a vote as 72,745 there must have been some ballot-box stuffing, repeating, or so on, the meagreness of the majorities will show it could not have been very great. In the XVIth district, for instance, the majority is but .00058 of the total vote, and a fraud of such attenuated proportions, while quite sufficient to decide the event for the entire 25,000 voters, could hardly be detected with a microscope. The other remarkable thing in these figures, that 36,399 Democratic voters obtained 3 Representatives in Congress, and 36,346 Republican voters failed to secure one, is only another illustration of that unfair apportionment of representatives to voters which the present electoral system renders possible.

V. *Exclusion of Able Men from Public Life.*

John Stuart Mill has some striking remarks in his "Considerations on Representative Government," on the tendency of the existing electoral system to exclude really able men from public life:

"The electors who are on a different side in party politics from the local majority are unrepresented. Of those who are on the same side, a large proportion are misrepresented, having been obliged to accept the man who had the greatest number of supporters in their political party, though his opinions may differ from theirs on every other point. The state of things is, in some respects, even worse than if the minority were not allowed to vote at all; for then, at least, the majority might have a member who would represent their own best mind, while now the necessity of not dividing the party for fear of letting in its opponents, induces all to vote either for the person who first presents himself wearing their colors, or for the one brought forward by their local leaders, and these, if we pay them the compliment which they very seldom deserve, of supposing their choice to be unbiased by their personal interests, are compelled, that they may be sure of mustering their whole strength, to bring forward a candidate whom none of the party will strongly object to—that is, a man without any distinctive peculiarity, any known opinions except the shibboleth of the party. This is strikingly exemplified in the United States, where, at the election of President, the strongest party never dares put forward any of its strongest men, because every one of these, from the mere fact that he has been long in the public eye, has made himself objectionable to some portion or other of the party, and is therefore not so sure a card for rallying all their votes as a person who has never been heard of by the public at all until he is produced as the candidate. Thus the man who is chosen, even by the strongest party, represents perhaps the real wishes only of the narrow margin by which that party outnumbers the other. Any section whose support is necessary to success possesses a veto on the candidate. Any section which holds out more obstinately than the rest can compel all the others to adopt its nominee; and this superior pertinacity is, unhappily, more likely to be found among those who are holding out for their own interests than for that of the public. Speaking generally, the choice of the majority is determined by that portion of the body who are the most timid, the most narrow-minded, and prejudiced, or who cling most tenaciously to the exclusive class interest, and the electoral rights of the minority, while useless for the purposes for which votes are given, serve only for compelling the majority to accept the candidate of the weakest or worst portion of themselves.

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"The natural tendency of representative government, as of modern civilization, is toward collective mediocrity; and this tendency is increased by all reductions and extensions of the franchise, their effect being to place the principal power in the hands of classes more and more below the highest level of instruction in the community. But, though the superior intellects and characters will necessarily be outnumbered, it makes a great difference whether or not they are heard. In the false democracy which, instead of giving representation to all, gives it only to the local majorities, the voice of the instructed minority may have no organs at all in the representa-

tive body. * * * In the American democracy, which is constructed on this faulty model, the highly cultivated members of the community, except such of them as are willing to sacrifice their own opinions and modes of judgment, and become the servile mouthpieces of their inferiors in knowledge, do not even offer themselves for Congress or the State legislatures, so certain is it that they would have no chance of being returned.

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"The great difficulty of democratic government has hitherto seemed to be how to provide, in a democratic society, what circumstances have provided hitherto in all the societies which have maintained themselves ahead of others—a social support, a *point d'appui* for individual resistance to the tendencies of the ruling power, a protection, a rallying point for opinions and interests which the ascendant public opinion views with disfavor. For want of such a *point d'appui* the older societies, and all but a few modern ones, either fell into dissolution or became stationary (which means slow deterioration) through the exclusive predominance of a part only of the conditions of social and mental well-being. * * * The only quarter in which to look for a supplement, or completing corrective to the instincts of a democratic majority, is the instructed minority, but in the ordinary mode of constituting democracy this minority has no organ."

Though somewhat highly colored, there is much truth in these remarks. Neither in Congress nor the State Legislatures is the standard of intellectual ability and personal worth as high as it once was, nor is there to be found in any legislative body throughout the United States that active opposition which once made legislation intelligent and in the main pure. Once such a thing as a combination between members of opposing parties was unheard of in our law-making bodies; each party stood stiffly on its own principles, fiercely assailed the other in all its measures, and would have thought such a thing as an admission that it could possibly be wrong itself, flat political treason. The result of all this heat, sometimes tragic, sometimes comic in its intensity, was upon the whole beneficial. The party in power had a party out of power to watch it like a hawk, put it continually upon its best behavior, and hold it up at all times to popular scrutiny and judgment, by relentless discussion. At any slip out went the Ins and in came the Outs, to be in turn subjected to the surveillance of the opposition. Latterly this wholesome antagonism has lost its force. The evil word "Ring" reveals the fact that men of opposing parties join hands in legislative halls to originate and complete corrupt schemes. A dead level of greed has succeeded to the old turbulent ambition. Year by year, as politics becomes a trade, the legislative standard

lowers, and yet how great a change would be wrought if every one-hundredth part of the voters could elect one member of a law-making body of one hundred, without regard to what any other one-hundredth part might do. In such a case "rings" would be impotent, the balance of power vote lose its force, and the disfranchisement of minorities be at an end. Let but one or two really able and independent men be sent to every law-making body in the United States, and who can estimate the influence for good of such an enlightened, upright, and unflinching opposition.

CHAPTER II.

THE PURPOSE OF MINORITY REPRESENTATION—ITS PROCESSES, HISTORY, AND PROGRESS—DEBATES ON THE SUBJECT IN PARLIAMENT AND CONGRESS—IN NEW YORK, ILLINOIS, SOUTH CAROLINA, CALIFORNIA, WEST VIRGINIA, ETC.

To remedy the defects of the existing electoral system is the aim of what is variously known as Minority, Proportional, Personal, or Totality Representation, all of which mean about the same thing. The idea is, that as the vote stands, so should stand the representation; or if there are 100,000 voters and 100 persons to be elected, every 1,000 voters should have a representative. If the 100,000 voters are politically divided into 40,000 Democrats, 30,000 Republicans, 15,000 Labor Reformers, 10,000 Free Traders, and 5,000 Temperance men, then the representative body should consist of 40 Democratic, 30 Republican, 15 Labor Reform, 10 Free Trade, and 5 Temperance members, or, in Mirabeau's words, "the representative body should at all times present a reduced picture of the people, their opinions, aspirations, and wishes." To accomplish this end various methods of voting are proposed, the most prominent being the *cumulative*, or *free, vote;* the *limited*, or *restricted, vote;* the *preferential vote;* the *list vote;* and the *proxy* and *substitute votes.*

By the *cumulative vote*, every elector has as many votes as there are persons to be chosen, and may distribute said votes equally or unequally among several candidates, or cumulate them all upon one.

By the *limited vote* the elector has a less number of votes than there are persons to be chosen; as, if four persons are to be chosen, no elector can vote for more than three candidates; if three are to be chosen, then only for two; and so on.

By the *preferential vote*, each elector votes for as many candidates as there are persons to be chosen, indicating by the figures 1, 2, 3, or in some other manner, his preferences among

the candidates for whom he votes, as that A. is his first choice, B. his second, and so on. The whole number of ballots cast is divided by the number of persons to be elected, and the quotient, excluding fractions, is the *quota*, or number of votes sufficient to elect a candidate. In the counting of the ballots, the first choices are first read, and he who has a *quota* of these is thereby elected, all such votes in excess of the *quota* going to the next-named person, and so on with the second and other choices.

By the *list vote*, the elector votes not for any candidates by name, but for a list containing their names and designated as List A., the Green List, or what not; and if that list receives, say, five, or three, or two *quotas*, then the first five, or three, or two candidates named thereon are elected.

By the *proxy vote* the elector gives a power of attorney to any qualified person to represent him, and on such person obtaining a *quota* of proxies he becomes *ipso facto* a member of the representative body.

By the *substitute vote*, the ballots which have been cast in excess of a *quota* for any candidate or candidates, and those which fall short of a *quota* for any other candidate or candidates, are cast anew by the successful and unsuccessful nominees for a sufficient number of new candidates to make up the full tale of persons to be chosen.

Besides these various methods there are a number of others of less importance, which will be considered when coming to speak more fully of the various plans for Proportional Representation proposed or now in use. Norway must have the credit of first putting the representation of minorities into the form of law. It is all but universally supposed that Denmark first provided for such a representation by the adoption of M. Andræ's scheme in 1859, but the fact remains that in the constitution of Norway as adopted October 7, 1814, a very distinct plan of Minority, or Proportional, Representation is set forth. From this original the neighboring kingdom of Denmark doubtless derived, *ab longo intervallo*, the Andræ scheme of 1855. In 1831, another reform bill being before Parliament, Mr. Praed, the poet, said:

"If we desire that the representatives of a numerous constituency should come hither merely as witnesses of the fact that certain opinions are entertained by the majority of that constituency, our present system of election is certainly rational, and members are right in their reprobation of a compromise, because it would diminish the strength of the evidence to a fact we wish to ascertain. But if we intend, as surely we do intend, that not the majority only, but the aggregate masses of every numerous constituency, should, so far as is possible, be seen in the persons and heard in the voices of their representatives—should be, in short, in the obvious literal sense of the word 'represented,' in this House—then, sir, our present rule of election is in the theory wrong and absurd, and in practice is but partially corrected by compromise."

In an article upon the subject of Minority Representation, contributed to the *American Law Review* for January, 1872, by a very well-informed writer who withholds his name, it is stated that in 1844 a Mr. Thomas Gilpin, of Philadelphia, issued in that city the first work on Proportional Representation, under the title "The Representation of Minorities of Electors to act with the Majority in Elected Assemblies." This was read as a paper before the Philosophical Society of Philadelphia, and afterward published in book form in a very small edition, but one copy, which is in the library of Harvard College, being now known as in existence. Mr. Gilpin's plan is described as worked out with great exactness, and to be from point to point identical with the *Libre Liste*, or ticket, vote advocated in 1871 by M. Ernest Naville, of Geneva, Switzerland. The claim in behalf of Mr. Gilpin seems indisputable, and it is a curious overthrowing of former beliefs on the subject of Minority Representation that Norway in 1814 and not Denmark in 1855 first put the idea into practical operation, and that the United States through Mr. Gilpin in 1844, instead of England through Mr. Thomas Hare in 1859, put forth the first book on the subject. In 1834, still another reform bill being before Parliament, Lord John Russell moved a representation of minorities (on a plan identical with one suggested by Professor Fawcett, the mode being what is known as the "three-cornered constituency," or that in the electoral districts returning three members no elector should vote for more than two candidates), and said:

"Now it appears to us that many advantages would attend the enabling the minority to have a part in these returns. In the first place there is apt to be a feeling of great soreness when a very considerable number of electors,

such as I have mentioned, are completely shut out from a share in the representation of one place. . . . But in the next place, I think that the more you have your representation confined to large populations, the more ought you to take care that there should be some kind of balance, and that the large places sending members to this House should send those who represent the community at large. But when there is a very large body excluded it cannot be said that the community at large is fairly represented."

In his Essay on the English Constitution, published some years afterwards, he again advocated his proposition, thus:

"If there were to be any deviation from our customary habits and rooted ideas on the subject of representation, I should like to see such a change as I once proposed in order to obtain representatives of the minority in large and populous counties and towns. If, when three members are to be elected, each elector were allowed to give two votes, we might have a liberal country gentleman sitting for Buckinghamshire, and a conservative manufacturer for Manchester. The local majority would have two to one in the House of Commons, and the minority would not feel itself disfranchised and degraded."

About the same time Mr. James Garth Marshall published a pamphlet on the same general subject, advocating, however, instead of the limited vote proposed by Earl Russell, the cumulative vote. In 1855, taking the hint, perhaps, from the Norwegian constitution, the Danish Government adopted as the method of electing representatives to the Rigsraad, or Legislative assembly of the kingdom, a system embodying the preferential vote, drawn up by M. Andræ. In 1859, Mr. Thomas Hare, of England, put forth a volume, entitled "The Election of Representatives, Parliamentary and Municipal."

In 1865, Mr. John Stuart Mill, in his "Considerations on Representative Government," gave a wide currency to Mr. Hare's speculations, and from that time to this there has been a great and growing interest in the subject, accompanied by legislative adaptations of the principle to a greater or less extent in England, Switzerland, and in some of the United States, notably in New York, North Carolina, Illinois, Ohio, West Virginia, and Pennsylvania. Even where it has not become law, Minority Representation has received great attention, as in France, Baden, Australia, the British colony of Victoria, and in many of our States. At home and abroad the history of its progress has been briefly this: In 1855, M. Andræ's system was adopted in the elections of representatives to the Danish Rigsraad, and worked so well for the

eight years of its operation, that Mr. Lytton, the English secretary of legation at Copenhagen, made a most favorable report thereon to his Government in 1863, in which year, however, the triumph of the Prussian arms in the Schleswig-Holstein war put an end to the system in the duchies wrested from Denmark, though it is still in force in the kingdom proper. Under this system the voter puts his first choice for representative at the head of his ticket, and those whom he prefers next in the order of preference. The whole number of tickets voted is then ascertained, and divided by the number of members to be chosen to the Rigsraad, and the quotient, rejecting fractions, is the *quota*, or number of votes, sufficient to elect any candidate. Having been thoroughly mixed, the tickets are drawn out one by one, and numbered 1, 2, 3 as they come out. In this order they are then read, only the first name being announced, however; and whenever any first name has received the *quota* of votes, that candidate is declared elected, and his name wherever after occurring is credited to the name immediately succeeding. The reading of the second choice is then taken up, and so on till a sufficient number of *quotas* have been filled. In 1853, Mr. Marshall published his work on the cumulative vote; and, in 1859, Mr. Hare his, on the preferential vote. Soon thereafter the general idea of Minority Representation was widely discussed, and at last, in England at least, acted upon. On the 30th of May, 1867, Mr. Mill, who was then member from Westminster, brought forward in Parliament, as an amendment to the Reform bill then pending, the essential features of Mr. Hare's scheme, and, though the motion did not prevail, it was enacted at a later session of Parliament that in all those districts returning three members, or "three-cornered constituencies," each voter should vote but for two candidates, thus securing the minority at least one member out of the three. At a later date, an effort was made to repeal this provision, but failed. In 1870, it was also provided in the new Education law in England, that each tax, or, as the English call it, rate, payer, should have as many votes in the school elections as there were members to be chosen, with power to cast those votes at will, all for one candidate, or in equal or unequal proportion among several. In Switzerland, in April, 1868, a Commit-

tee of the Grand Council of Neufchâtel reported in favor of the adoption of some system of proportional representation by a vote of 6 to 3, and the Grand Council afterwards approved the report by a vote of 43 to 33. At Geneva an association to accomplish the same end was formed, a paper styled the *Economiste* established, and much attention given the subject, especially by M. Ernest Naville, in contributions to the *Bibliothèque Universelle.* In Lucerne and Zürich steps have also been taken towards the representation of minorities. In France, M. Leon Say, a member of the commission appointed by the Ollivier Ministry under the Empire to prepare a scheme for the reorganization of the municipality of Paris, proposed the adoption of the cumulative system of voting in the elections in that city. M. Emile Girardin, of the same commission, warmly favored the idea, and M. Prevost-Paradol, the distinguished Parisian journalist, afterwards French Minister to the United States, gave his opinion of proportional representation as "an improvement upon the system of representation now in use as evident and almost as important as the application of steam to industry." In Germany an eminent publicist, Robert von Mohl, has devoted much time to the same subject with great effect, and in Baden a member of the ducal cabinet has strongly favored the application of minority representation to the elections there. In 1862, the legislative council of New South Wales passed a bill to provide for Proportional Representation by a vote of 11 to 4, in which the other branch of the colonial parliament, the legislative assembly, concurred by 24 to 20, the measure failing, however, by reason of the opposition of the Crown officers. The same subject was debated in 1863, in the parliament of the sister colony of Victoria, and in March, 1872, Mr. Walter Morrison brought forward in the House of Commons a bill to provide for the proportional representation of the people in England and Wales.

Coming to the United States, the single district act of June 25, 1842, was undoubtedly an attempt to give the minority representation, and out of the discussions upon this measure no doubt grew Mr. Gilpin's book of 1844. In 1856 Mr. J. Francis Fisher, also of Philadelphia, published a work since succeeded by several others on the same general subject, but not until 1866

did the topic receive extended attention. By means of leading newspapers throughout the country—prominent among them the New York *World* and *Tribune*, the Chicago *Republican* and *Times*, the Cincinnati *Enquirer*, and the St. Louis *Republican*—and in other ways, a considerable degree of public interest was aroused, and in the act of the Legislature of New York, of March 29, 1867, to provide for a convention to revise and amend the constitution of the State, it was required that thirty-two of the delegates to be chosen should be elected from the State at large; no voter to vote for more than sixteen candidates. In this way, though the political bias of the delegates elected to the convention from single districts stood 81 Republicans to 47 Democrats, the delegates from the State at large stood 16 to 16. In the same year in which the New York Convention met, Mr. Buckalew offered an amendment in the United States Senate to the supplementary reconstruction bill, in the nature of a proposition to apply the cumulative vote to the election contemplated by that measure, and on the 11th of July supported his amendment at length. On the 19th of November following he addressed a public meeting in Philadelphia in advocacy of the application of the cumulative vote to elections generally throughout the country, and on the 13th of January, 1869, introduced into the Senate "A bill to amend the representation of the people in Congress," which was referred to a select committee, and reported without amendment on the 2d of March following. On the 19th of January, 1869, the House of Representatives then having under consideration a bill to preserve the purity of elections in the Territories, Mr. Phelps, of Maryland, moved that the cumulative vote be applied to said elections, which was rejected by a vote of 116 to 49. On the 24th of June, 1870, the House then having under consideration a bill to provide for the apportionment of representatives, Mr. Marshall, of Illinois, moved to amend by applying the principle of the cumulative vote to the election of the 58 additional members called for by the bill. Bill and amendment, after an interesting debate, hereinafter synopsized, were recommitted by a vote of 96 to 94.

A short time prior to this debate, it was provided, through the

efforts of Senator Buckalew, by an act of the Legislature of Pennsylvania of March 4, 1870, that the cumulative vote should be applied to the town, or as it is called in Pennsylvania, the borough, election of Bloomsburgh, the place of Mr. Buckalew's residence. On the 12th of April, 1870, the first election under this act was held, and the system operated so well that by act of June 2d, 1871, the Legislature extended the law to all borough elections throughout the State. In 1870, still another step toward the reduction into practice of the principles of Minority Representation was taken in Illinois by a State convention, met to frame a new organic law for that commonwealth. In the instrument adopted by this body May 13th, and ratified by the people on the 2d of the July following, was inserted a clause applying the cumulative vote to elections for members of the lower house of the State Legislature from and after 1872. In Ohio, by act of April 12, 1870, the principle of Minority Representation was applied to the election of judges of election, by providing in effect that while only two candidates could be returned, the candidate having the next highest vote to the two elected, should be made the third member of the board. In May, 1870, the Board of Overseers of Harvard College was elected upon the principles of Proportional Representation. In South Carolina a convention of the tax-payers of the State was held at the capital, Columbia, from the 9th to the 12th of May, and by this body resolutions were adopted approving the adoption of some system of Proportional Representation, and recommending the cumulative vote. In Nebraska a State convention met on the 13th of June, 1871, and in the constitution submitted by it to the people provided for the application of Proportional Representation to corporation elections. In his message of November 28, 1871, the Governor of South Carolina recommended the subject of Minority Representation to the attention of the Legislature, and in his message of December 5, 1871, the Governor of California took the same ground. In November, 1871, the propriety of applying the cumulative vote to the municipal elections in Wilmington, was agitated in the North Carolina Legislature, and from the 12th to the 14th of December an amendment applying the same vote to the apportionment

bill was debated in the United States House of Representatives, though finally lost by a vote of 90 to 74.

With the opening of 1872, the consideration of Minority, or Proportional, Representation received a new impetus. To the *American Law Review* for January, 1872, was contributed the very handsome article heretofore mentioned, "The Machinery of Politics and Proportional Representation." In his message of January 2d, Governor Hoffman, of New York, recommended the adoption of some form of Minority Representation in the new charter at that time proposed for the city of New York, saying:

> "If any plan can be devised for giving in the legislative branch of the city government, by election, a just and proportionate representation to the minority, it would be a wholesome improvement. * * * The proper purpose of minority representation is to secure to the minority the opportunity of being heard in the public councils, without nullifying the rightful control of the majority, or relieving it from its just responsibility."

January 16th, Mr. Maxon introduced into the Assembly, or lower house of the Wisconsin Legislature, a resolution proposing to so amend the State constitution as to apply the cumulative vote to all elections for members of the Legislature. January 18th, ex-United States Senator Willey, of West Virginia, introduced into the Convention, which met at Charleston, in that State, on the 16th, to revise and amend the State constitution, a resolution looking to the adoption of the cumulative vote for legislative and judicial elections. January 20th, the new charter for the city of New York was reported to the Legislature, with a provision that the board of aldermen be elected by the cumulative vote. January 23d, the Pennsylvania Senate passed, on motion of Mr. Buckalew, a bill applying the cumulative vote to the election of all school directors throughout the State. January 29th, D. Thew Wright, Esq., of Cincinnati, O., contributed an interesting communication on Minority Representation to the *Enquirer;* and on the 30th, S. Dana Horton, Esq., contributed to the same paper an able essay on the same subject, read by him January 6th before the Literary Club of Cincinnati. In this same month Mr. Isaac Butts, of Buffalo, N. Y., advocated one form of Proportional Representation in an article contributed by him to the *Galaxy* magazine; the North Carolina legislature

applied the cumulative vote to the municipal elections of Wilmington; and in the South Carolina Legislature resolutions proposing to amend the State constitution so as to provide for Minority Representation were introduced. February 19th, a convention met at Salt Lake City to frame a constitution under which the territory of Utah might be admitted as a State, and in that instrument applied the cumulative vote to the election of members of the lower house. March 13th, Mr. Meeker brought up a bill in the California Assembly providing for the application of the same vote to all elections, which passed to its engrossment by 30 to 20. March 30th, the subject of Minority Representation was debated in the West Virginia Convention, and a clause authorizing the Legislature to propose some plan to that end, to the popular acceptance in 1876, was inserted in the constitution then framing, by 41 to 22. In the same month the Pennsylvania Legislature provided for the election of delegates to a convention to revise the State constitution by the limited vote; and in April the Legislature of New York passed a new charter for the city of New York, applying the cumulative vote to the election of aldermen therein. How the literature of the subject has increased since 1866 may be seen by reference to the list of works in the Appendix. Some account of the leading debates on Minority Representation at home and abroad will be of interest, and is here subjoined. Let us begin abroad.

The Reform Bill coming up for consideration in the House of Commons, July 4, 1867, Hon. ROBERT LOWE moved as an amendment the following:

"That at any contested election for a county or borough represented by more than two members, and having more than one seat vacant, every voter shall be entitled to a number of votes equal to the number of vacant seats, and may give all such votes to one candidate or may distribute them among the candidates as he thinks fit."

In support of his amendment Mr. LOWE said:

"That he must not be understood as coming forward to argue for any protection to the minority, . . . but between the members of the constituency there should be absolute equality; the majority should have nothing given to it because it was a majority; the minority should have nothing taken away from it. . . . Let each voter have an equal number of votes not dependent upon the use he makes of them; let him be at liberty to dispose of them as he likes. . . . The tendency of the present system was to

make that stronger which was already strong, and that weaker which was already weak."

"There was nothing more worthy of the attention of statesmen in the new state of affairs than anything which would have the tendency to prevent that violent oscillation which they now witnessed. What happened in the United States? The minority of thousands might as well not exist at all. It is absolutely ignored. . . . He might justly add that the principle of the amendment was large enough to include boroughs returning two members, as well as those which had three, and if it were worth while he was prepared to contend that upon abstract principle it ought to be applied to both classes of boroughs."

Messrs. THOMAS HUGHES, of "*School Days at Rugby*" fame, FAWCETT, JOHN STUART MILL, and others, also argued in behalf of the amendment, and Mr. BRIGHT and the Chancellor of the Exchequer against; and on the 6th of July the amendment was defeated by yeas, 173; nays, 314. The bill coming up in the House of Lords, Lord Cairns moved on the 30th of July the following:

"At any contested election for any county or borough represented by three members, no person shall vote for more than two candidates."

In support of his amendment Lord CAIRNS explained the advantages of the system proposed, saying:

"These must obviously be looked at from three points of view—the advantages to the general legislation of the country, the advantages to the members who would be selected under an arrangement of this kind, and the advantages to the constituencies themselves. Now, with regard to the legislature, the advantages which I think would be gained by this system would be these: you would obtain in the persons of those who would be the representatives of the minority in these large constituencies a body of men of great intelligence, and of great independence. . . . You would have from the same constituency two members representing the majority, and one representing the minority, communicating freely with each other, and without the slightest tinge of jealousy or apprehension that the interests of one would jar or conflict with the interests of the other in the constituency. . . . Again, with regard to the constituency itself, I believe you would gain the greatest possible local satisfaction; there is nothing so irksome to those who form the minority of one of those large constituencies as finding that from the mere force of numbers they are virtually excluded from the exercise of any political power; that it is vain for them to attempt to take any part in public affairs; that the elections must go in one direction, and that they have no political power whatever."

Earl RUSSELL followed on the same side, saying:

"I believe by means of such a plan you would introduce into the House of Commons men of moderate views, whose influence would tend to reconcile parties on those occasions which now and then arise when neither extreme is completely right, and when the influence of moderate men is of much use in allaying the heat of party passion. . . . The gentleman who

first impressed me with these opinions as to three-cornered constituencies, mentioned to me that in a great manufacturing town where there was a very considerable conservative minority, men of the greatest respectability, men of wealth, and men of education were in such a state of political irritation, from the fact of feeling themselves reduced to the position of mere ciphers at elections, that they were sometimes ready to support candidates of even extreme democratic opinions."

A debate followed, in which the amendment was supported by Earl Russell, Earl Spencer, Earl Stanhope, Earl Cowper, the Earl of Carnarvon, Lord Houghton, the Earl of Shrewsbury, and Viscount Stratford de Redcliffe; and was opposed on behalf of the Administration by the Earl of Malmesbury and the Duke of Marlborough.

The vote stood:

For the amendment	142
Against it	51
Majority	91

Lord CAIRNS then proposed the following additional clause:

"At a contested election for the city of London no person shall vote for more than three candidates."

The clause was agreed to.

The London *Times* of the next day warmly commended the action of the Lords, and said:

"The idea of modifying our electoral machinery so as to secure in three-membered constituencies the proportionate representation of both the great divisions of party, has made its way by its inherent justice. The verdict of the Lords has been decisive, but we do not believe that it in any degree outstrips the independent opinion of the House of Commons, still less that it is at variance with the deliberate judgment of the country. It has been everywhere confessed that the adoption in one form or another of the principle of cumulative voting was essential to maintain the character of our institutions, and that through it, and through it alone, could the redistribution of electoral power (which all prescient statesmen regard as inevitable) be reconciled with the preservation of our representative government."

On the 8th of August the amendments of the Lords came up in the House. Mr. Disraeli, then Chancellor of the Exchequer, said that despite the utmost efforts of the Ministry the Lords had carried those amendments by a vote almost approaching unanimity, the opposition consisting almost entirely of the members of the Administration, and in deference to that vote he would advise a concurrence by the House.

Mr. BRIGHT said:

"He wished he could find a suitable word to express his contempt for the proposition without expressing in the slightest degree anything that might be offensive to honorable members on his side of the House. . . . The change proposed to be made was a fundamental change. There was no precedent for it in parliamentary history. It affected fundamentally the power of not only the constituency, but of every individual in it. The alteration proposed had not been asked for. During six hundred years the principle of election by the majority had prevailed in the selection of members of the House."

Mr. BUXTON said:

"It seemed to him that valuable as the other results would be of the adoption of the proposed arrangement, no one of them would be of greater importance than this: that it would call forth so much political vigor and life in the constituencies to which it was applied. . . . It would be invidious to do so, otherwise he could easily remind the House of many boroughs and many counties in which utter apathy and stagnation had actually resulted from the feeling of the minority that any exertion of theirs must be vain."

Mr. KNATCHBULL-HUGESSEN said:

"Two great advantages would be secured by adopting the proposed system of representation. In the first place, in times of popular excitement it would insure the return to Parliament of eminent men who would otherwise be excluded.

"The second great advantage from the adoption of this system was the inducement it would offer to large numbers of persons to take part in the political affairs of the country, who might otherwise be indisposed to give their votes. Such participation was one of the most essential elements of democracy—that every man in the community should feel himself a component part of the state—should assist in framing the laws which he had to obey, and should throw his whole individual strength and vigor into the constitution."

Mr. GLADSTONE opposed the amendments, and said:

"If adopted at all, this proposition must be adopted with perhaps the knowledge, and at least with the certainty, that whether we admit it ourselves or not, it must unfold and expand itself over the whole country and completely reconstruct the system of distribution of seats." [Hear, hear.]

Mr. LOWE closed the debate thus:

"There is a sort of worship of the majority which, after all, is a mere political superstition. True representation, the idea of true representation, is to leave no portion of the constituencies unrepresented. [Hear.] The art of representation, like other arts, is progressive; and if means can be found for increasing the number of members, and then adapting your system to that increase by the cumulative vote, so as not to disfranchise minorities and to give some representation to the whole of the constituency, so far from regarding that as an innovation upon the constitution, I think we ought to hail it as an advance in the science of government." [Cheers.]

The House then divided, when there appeared:

Ayes	204
Noes	253
Majority	49

So the motion to disagree to the Lords' amendment was lost, and the clause stood a part of the bill. The announcement of the numbers was received with cheers. The next amendment, that at a contested election for the city of London no person should vote for more than three candidates, was then, after a brief debate, agreed to by a majority of sixty-four.

A short time prior to these proceedings in Parliament, the New York Constitutional Convention met, and the debates in this body came next.

The Convention met on the 4th of June, 1867, and on the 17th Mr. HALE offered the following:

"*Resolved*, That the Committee on the Organization of the Legislature be instructed to inquire into the expediency of providing some system by which a more equal and just representation of all the electors, minorities as well as majorities, may be secured; and that with this view they be respectfully requested to investigate the system originated by Mr. Thomas Hare, and recently proposed in the English Parliament by John Stuart Mill."

On the same day Mr. BICKFORD offered a resolution that there be 180 members of the Assembly, as the lower house of the Legislature is termed in New York, and 45 members of the Senate.

"—144 of the members of Assembly to be elected in districts entitled to elect not less than three nor more than six members, and the other 36 to be elected for the State at large as personal representatives, each elector throughout the State to be entitled to vote for one personal representative in the Assembly, and the 36 receiving the highest number of votes to be elected; also, each elector throughout the State to be entitled to vote for one personal representative in the Senate, and the 9 persons receiving the largest number of votes to be elected, and the other 36 Senators to be elected in districts entitled to elect one Senator only."

On the 25th of June, Mr. FIELD offered the following:

"*Resolved*, That it be referred to the Committee on Corporations, other than municipal, banking, and insurance, to consider the expediency of providing in the Constitution that all corporations composed of shareholders be required to so conduct their elections of directors as to enable such number of shares to elect a director as bears to the whole number of shares represented at the election the same ratio as unity bears to the number of directors to be chosen."

On the 16th of July, Mr. KRUM offered the following:

"*Resolved*, That the State be divided into forty-three Assembly districts, as near as may be equal in population, not dividing counties, in each of which three members of Assembly having the largest number of votes shall be declared elected, but no elector shall vote for more than two members; the Legislature to provide by law for the case of a tie between the two highest of the minority."

On the 17th of July, the Committee on the organization of the Legislature reported, ignoring the question of Minority Representation, and asking to be discharged from the further consideration of the resolutions bearing on that subject referred to it.

On the 1st of August, Mr. GREELEY moved to amend the report by applying the cumulative vote to the election of Senators and Representatives.

Next day the report and amendment were debated. Mr. HATCH, referring to Mr. Greeley's proposition, said:

"A proposition that would secure representatives in the Legislature from minorities as well as majorities, is democratic. It seems to me, sir, that those who believe in popular representation and popular supremacy, should sustain it if it is practical."

Mr. HALE said:

"It is plain that a representative Legislature approximates the end for which it was designed just in proportion to the completeness and exactness with which it represents the whole people—not a majority only, but all the people. No representative quorum can do this perfectly. But the nearer it comes to such perfection, the more truly is it in fact a government of and for the people. Now under our present system it is evident that this is done very imperfectly. Our people are divided into parties. Men's honest convictions lead them to prefer the principles of one party to another. It is found, practically, that in some parts of the State one party is uniformly in a large majority, and in other portions the other party. To specify: the city of New York, the counties of Kings, Richmond, Westchester, and Rockland, are always Democratic. St. Lawrence, Washington, Jefferson, Chautauqua, and most of the counties in the northern and western part of the State, are always Republican. Republicans in the former counties and Democrats in the latter are practically unrepresented. Republicans in Richmond and Democrats in St. Lawrence have 'no part or lot' in the legislation of this State. Members from their own localities do not represent them politically. Members from other parts of the State, of similar political views, do not represent their local interests. They are in fact without representation; and the misfortune is not theirs only, but the State's, for she is thus deprived of the benefit of the presence in her councils of some of her best and wisest sons. . . . It is my humble opinion, Mr. Chairman, that Mr. Hare's system in England in its present form and in the same form in our country is feasible in practice. . . . The cumulative vote equalizes representation less perfectly than Mr. Hare's system, but more simply, and with less machinery and less novelty. . . . Now let us consider the objections to any system which

represents minorities. It is said to be a revolution of the principle that the majority should rule. I deny it. The *people* will rule under this system, and the majority will prevail as truly as now. It will only give local minorities a chance to be heard. It is said that it will destroy *local* representation. My answer is, that local representation will be retained just as far as desirable. The people of the respective localities will take care of that. * * * Another objection made is, that this plan will tend to destroy and break up party organizations. I am not one of those, Mr. Chairman, who consider the existence of parties as an unmixed evil. I think we must and should have parties in a free government and the plan proposed will not break up or destroy parties. It will tend to do away with party tyranny, It will liberate the voter from the dominion of party, and not leave him a mere machine to record the edicts of a caucus or convention. And this I consider not an end to be feared, but 'a consummation devoutly to be wished.'"

Mr. DUGANNE said:

"I confess, Mr. Chairman, that I am a believer in the representation of majorities rather than minorities, and I believe it is a Democratic doctrine, and a doctrine which is essential to the perpetuity and the strength of the republic, that the majority should rule, and that the minority should be represented only so far as they can be. The majority of to-day, in a well-constituted republic, may be the minority of to-morrow, and the minority of to-day may be the majority of to-morrow; and it is proper that such a corrective should be accessible to the people at all times; so—that if a majority of this State shall embody in its partisan rule such principles or such measures as are unjust—that the next year the minority shall have power to correct the wrong by overturning the injurious majority. It is the principle of democratic rule, and I do not believe at all in this representation of minorities, which is, I am aware, an exotic of English growth."

On the 8th of August, debate still proceeding, Mr. GREELEY urged his amendment, and said:

"In this amendment it is proposed to have fifteen Senate districts, each containing 55,000 electors. Now, if in any district the minority party, or any minority, shall number so many as 14,000 electors—over one-quarter of the whole number—that minority can surely elect one Senator, by nominating a single candidate, and printing his name thrice on each ballot, which would give the candidate 42,000 votes; and it is not possible that the larger party, having but 41,000 voters in all, can, by any permutation or management, prevent the minority from choosing one Senator. * * * One gentleman has said that two factions of one party might conspire with each other; that they might divide and subdivide, and contrive by management to elect all three Senators; but no, they cannot possibly prevent the minority from electing one Senator. Again, a gentleman on the floor said that no party would confess itself in the minority. No party *need* do so; where the disparity is notorious, palpable, it will do so; but in every other district each party will nominate two candidates and try to elect both; and the party which is the stronger *will* elect two, and the weaker party will elect one. It is just as good for persons outside of any party. Here are independent voters choosing to elect some able and eloquent man, who stands outside any party organization. If they exceed one-fourth of the voters of the district, they *can* elect that man by cumulating his name on their ballots. This is a plan to allow a minority to have a representative—to allow the whole people to be represented."

Mr. Greeley's amendment was lost: ayes, 20; noes, 93.

On the 20th of August the subject of Minority Representation again came before the Convention in the shape of Mr. Paige's proposition, to require each director chosen at a corporate election to have as many votes as might equal the quotient procured by dividing the whole number of shares voted on by the number of directors to be chosen.

In support of his proposition Mr. PAIGE said:

"If there is a class of citizens who require protection it is the class of minority stockholders in stock corporations. They have no participation, not the least, in the management of their own property. All other persons interested in a common property, have, and are entitled to have, a share in its management. But in the case of stock corporations a majority of the stockholders elect a board of directors, and those representatives have the exclusive management of the affairs of the corporation, to the entire exclusion of the minority of the stockholders. The minority stockholders have no more power of interference in the management, than if they had no interest whatever in the institution."

Mr. GREELEY said:

"I deem this a very salutary and righteous proposition, and I trust the committee [the convention was then in committee of the whole] will sustain and adopt it."

Mr. CASSIDY said:

"This amendment accomplishes the internal reform of corporations by placing a check within the board of direction upon mismanagement. It gives what has always been denied in this country—a representation to the minority of shareholders."

Mr. PARKER said:

"We must all agree, I think, that it is a very great evil where there is a struggle for the control of a corporation for a successful party electing the directors by a bare nominal majority, to the entire exclusion from participation of the minority—nearly half, it may be, of the stockholders. The consequence is it is managed mainly for the benefit of the majority, for the benefit of the directors who have in the meantime the control, and not for the benefit of all the stockholders, as it should be."

Mr. ALVORD said:

"I believe that corporations are collected together of individuals for the purpose of acting under one single general head in one single direction; and when gentlemen so associate themselves together they do it with a knowledge that the majority of interest represented in such corporation or association shall direct the entire of the energies of the corporation to the end sought to be attained, and I am not in favor for the purpose of enabling gentlemen who may belong to corporations, and are disappointed in getting a majority of the votes of the stockholders of that corporation, to have place by a minority representation."

Mr. COMSTOCK said:

"I think the amendment is right. * * * It may not afford a perfect remedy, but that something can be done I have no doubt. You may suppose that a board of trustees is composed of nine members, and that the Legislature shall enact a law that no stockholder shall vote for more than five of those members. In that case Mr. Vanderbilt, or some other great capitalist, may own more than half the stock, and if so, though he can elect a majority of the board of directors, he cannot elect the whole of them; the minority can elect the other four. Those four represent the minority of the cash or capital of the corporation, and they will be present with the majority to watch their proceedings."

Mr. CONGER said:

"You cannot undertake to impose by law what ought to be really a part of the agreement which men should make with one another when they associate. If they mean, when they start, to give the minority a representation, that should be part of the original compact, and it should not be forced by law in a corporation, or in articles of agreement which have been founded on another basis."

Mr. HALE said:

"We will suppose a corporation in which there are precisely thirteen hundred shares and thirteen directors to be elected. We will suppose that the stockholders of that corporation are divided upon some great question of policy; that the owners of five hundred shares are in favor of a certain course of policy, and the owners of eight hundred of another. Now what is the fair division of power between the majority and minority of that board? Is it proper, is it right that the five hundred should be deprived of every chance to be heard upon that board, and that the owners of the eight hundred shares should compose the whole board. It seems to me clearly not. To my mind the correct division is, that the owners of the eight hundred shares should have eight directors to represent them, and the owners of the five hundred shares, five directors."

Mr. EVARTS, afterward Attorney-General of the United States, said:

"In the instance proposed of eight directors of one view, and five of the other, elected by that proportion of stockholders, the minority, in the end, would be unrepresented by an actual power. What power do they have afterwards? The eight govern the five, unless you were to carry this representation of the opinions and wishes of the minority to this absurd result, that in every measure to be adopted by the board the opinions are to be amalgamated in the proportion of five to eight. As, for example, if the proposition is whether a railroad shall be built thirteen miles long, or one mile long, and eight of the thirteen are of one view, and five of the other, that you will build it at the mean length of six or seven miles. After all, it comes to this, that the minority do not wish to yield, and when they are *outvoted*, they perversely consider themselves *disfranchised*."

The Convention then voted, and Mr. Paige's amendment was lost by ayes, 32; noes, 71. While thus declining to make any ap-

plication of the principles of Minority Representation to legislative or joint-stock company elections, the Convention ordained, in the judiciary article of the Constitution framed by it, that at the first election of a Chief Judge and six associates under it, "every voter may vote for the Chief Judge and only four of the Associate Judges." In this way the Democratic party, though then in a majority, only elected the Chief Judge and four Associates in 1870.

December 13, 1869, the Convention elected to prepare a new Constitution for the State of Illinois met at Springfield in that State, and on the 17th Mr. HANNA offered the following:

"*Resolved*, That the Committee on the Legislative Department be instructed to inquire into the expediency of so amending the Constitution as to provide that the House of Representatives shall consist of one hundred and twenty members. That for the purpose of electing the same, the State be divided into forty representative districts of contiguous territory, and as nearly as possible of equal population. That the persons having the highest number of votes be elected from each district. That no elector be allowed to vote for more than two representatives, to the end that minorities may be represented in the Legislature of the State in proportion to their numbers."

On the 20th, a Committee on Electoral and Representative Reform was appointed, consisting of Mr. Jos. Medill, of Chicago, a prominent advocate of Minority Representation, Hon. O. H. Browning, Ex-Secretary of the Interior, and Messrs. Goodell, Craig, Hay, Wendling, Wait, Hanna, and Springer.

February 10, 1870, Mr. Medill, from the Committee on Electoral and Representative Reform, presented the report. It provided that the population of Illinois, according to the census of 1870, should be divided by fifty-one, the quotient to be the ratio of representation in the Senate, and by one hundred and fifty-three, the quotient to be the ratio of representation in the House. Three times the number of inhabitants required for a senatorial ratio were to form a senatorial district, electing three senators; and three times the population required for a representative ratio were to form a representative district, to elect three representatives. The method of electing was thus ordained:

"SECTION 5. In all elections of Senators or Representatives, each qualified voter shall be entitled to as many votes as there are Senators or Representatives to be elected by the same constituency, and may distribute them (or equal fractions thereof) equally or unequally among the candidates, or

concentrate them upon one, at his option, and the candidate highest in vote shall be declared elected."

In support of their report the committee said:

"It apportions the State into three membered districts, in order that the minority party may be represented as well as the majority.

"It provides for totality representation: that is, for the representation of the whole people of both the great parties, and of other parties which may arise in any district or constituency, for all offices, whenever more than one of the same grade or rank is to be filled by the same constituency at the same time.

"It provides that the elector shall enjoy a free and unrestricted ballot, and may concentrate or distribute his votes equally or unequally among the competing candidates as he shall see fit. It treats the voter as a sovereign citizen, who has an indefeasible right to do with his vote as he pleases, and whom it is improper as well as impolitic to limit or restrict in the distribution of his suffrage among the candidates presented for his choice."

May 6, 1870, the report from the Committee on Electoral and Representative Reform, made February 10, was taken up. Mr. Medill offered a substitute limiting the application of the cumulative vote to the election of members of the House of Representatives from and after 1872, three representatives to be chosen in every Senatorial district, and said:

"Perhaps no proposition has come before this convention that has more fully taken possession of my mind, because I believe it is one of the greatest and most valuable improvements in a free government ever devised by the wisdom of man, since representative government has been established. I believe it is only a question of time when the principle of minority representation will be applied to all legislative elections, in Europe and America, from Parliament or Congress down to village aldermen, and in all other cases when two or more officers are to be voted upon at the same time for the same office. By this plan, and this only, can the democratic equality of the citizen be asserted and carried into practice and public life. * * * The whole people, instead of a plurality or majority, will be represented by this plan; and it is as much superior to the old method of representation as the whole is greater than the half. It does not attempt to take away any of the rights of the majority. The majority, under this system, will still rule, having full and ample control, and still being responsible for the laws made; but this gives the disfranchised minority, who may amount to almost one-half the community, some voice—some representation in government, some chance to be heard. It secures representation with taxation, which the existing one-sided system does not. It gives the minority some opportunity to present their views, and defend their principles and interests in the halls of legislation. What can be more just than that, or more correct in principle?"

Mr. CAMERON said:

"It is saying much in behalf of any proposition when we can set out with the assertion that it is sound in principle, that it has its foundations in justice and truth. It is saying still more when we can add to this assertion

that the method proposed for carrying the principle into practical operation is the best and simplest that can be devised, and that by the adoption of that method we may be instrumental in removing from our present system, evils, the existence of which no one undertakes to deny, and which no one should seek to perpetuate."

Mr. GOODHUE said:

"I lay down the proposition, in the first place, that it means only one thing—it means free speech upon the floor of the Legislature. It means free speech and nothing else. * * * Under this plan minorities are placed in a position where they can discuss any measure brought forward, and where they can, to the best of their ability, advocate or oppose it by their influence and arguments. After this is done, they have accomplished all they can accomplish, they have discharged their duty, and they have not interfered with the right that majorities have to rule in the slightest degree, because majorities, under this system, as well as the old, must govern, and the voice of the majority, when once it passes into a law, becomes the expressed will and authority of the State."

The section was then adopted, yeas, 46; nays, 17; and as adopted reads:

"The House of Representatives shall consist of three times the number of the members of the Senate, and the term of office shall be two years. Three representatives shall be elected in each senatorial district, at the general election in the year of our Lord one thousand eight hundred and seventy-two, and every two years thereafter. In all elections of representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit; and the candidates highest in votes shall be declared elected."

This section was separately submitted at the submission of the new constitution to the popular vote, and was adopted by a vote of 99,022 in favor thereof, and 70,080 against, at the election on July 2, 1870.

The next debate was in the United States House of Representatives. On the 24th of June, 1870, the House then having under consideration a bill to provide for the apportionment of representatives, Mr. MARSHALL, of Illinois, moved to amend by applying the principle of the cumulative vote to the election of the 58 additional members called for by the bill; and upon this proposition debate ensued.

Mr. MARSHALL said:

"The general application of this principle has been contended for by many distinguished men in this country and in Europe, and by nearly all who have ever given careful attention to the subject. The reasons in favor

of such a system are indeed manifest. It gives to every mode of thought in every State a proper means of expression by representation in Congress. It secures to each elector the means of utilizing to the best advantage and using with most effect that portion of political power to which he is justly entitled. Under the existing system, even of electing in separate districts, the minority is virtually deprived of any effective voice in the government of their country.

* * * * * * * * * * *

"The amendment which I have proposed preserves the sacred right of representation, and gives to every man the power to use with effect his electoral franchise. It substitutes justice for injustice, and protects minorities everywhere from the threatened outrage and robbery. It is simple, easily understood, and without any difficulty in its practical application."

Mr. Cox, of New York, said:

"As my friend from Illinois has said, the best minds of the present time favor this system. It had its most philosophic statement from Mr. Hare, of the British Parliament. I have had the honor to know him personally, and to appreciate his research and sense of justice. It was approved by Mr. John Stuart Mill. * * * I hold that the adoption of this principle is an advance in representative government. It is well adapted to bring about better legislation; it is a guarantee of tranquillity; it will improve the character, ability, and honor of this House; it is a just and equitable measure. Every gentleman must perceive that it is wisest and best to have fair criticism upon this floor. We have here the previous question; we have an intolerant majority; we have various instrumentalities to check debate. The people believe that Congress is degenerating. The great bulk of the people believe that we are not what we should be. But if we had here a courageous, honest, critical opposition representing the minority—I care not from what side that opposition might come—it would work a vast improvement in our legislation."

Mr. GARFIELD, of Ohio, said:

"In my judgment it is the weak point in the theory of representative government, as now organized and administered, that a large portion of the voting people are permanently disfranchised. * * * Take my own district as an example: I have never been elected by less than nine thousand majority. Sometimes the majority has exceeded twelve thousand. There are about ten thousand Democratic voters in my district, and they have been voting there for the last forty years, without any more hope of having a Representative on this floor, than of having one in the Commons of Great Britain. * * * Now, while I do not suppose that any system can be devised by which every citizen of the United States shall be politically and sentimentally represented here, I do think that something can be done that shall make a much nearer approach to an equitable representation than the present system."

Mr. HALDEMAN, of Pennsylvania, said:

"I desire, in the first place, to express my adhesion to the principle of cumulative suffrage (or free vote), of which Mr. Buckalew, of Pennsylvania, has been the most zealous friend in this country. And I do so more cheerfully because at the home of Mr. Buckalew, at Bloomsburg, last fall, it has

been proved that cumulative voting is admirably adapted, in actual practice, to free institutions. I advocate the free vote as a partial cure for the most threatening danger of republican representative institutions; for I believe that representative institutions are falling into discredit throughout the world, and that through our own act this American Congress has ceased to represent the American people or command their respect."

Mr. SMITH, of Oregon, said:

"Mr. Speaker, I am not prepared to say that I would favor the adoption of this principle in every State and at all times. But if we are to have the next Congress of the United States constituted in accordance with the population of the different States, then we ought to adopt this amendment to apply to that particular election. I can conceive of no case where injustice would be done, while every one can see that by it injustice would be avoided in many cases. The nearest possible approach to injustice which occurs to my mind is this: Suppose two Representatives were to be elected by a State at large. Under existing laws both of those members would be elected by the party having the majority in the State. Under this amendment, if the minority party had just one vote more than one-third of the entire vote polled, that party could elect one of these Representatives by casting all of their votes for one of the candidates. That is the nearest approach to injustice that could occur, giving to a little more than one-third of the vote one-half of the representation in that particular case; but it is less unjust and less unfair than to give less than two-thirds of the vote the entire representation of the State at large."

Mr. JUDD, of Illinois, said:

"My colleague has presented a very plausible, but, as I think, a very dangerous proposition. * * * This country of ours is a country governed by majorities, and each voter is represented, although the man of his choice may not be elected. The theories of professors at Oxford or Harvard may be charming and well-reasoned, but when applied to practice by mere force of action they fail of accomplishing the results anticipated. * * * As an illustration how easily all these fine theories can be beat in practice, I desire to give a little illustration of practice as against theories. Some years since the good people of a good county in New York thought they would raise the judiciary above party politics. They had two judges of one of their courts to elect, so they procured a law that no voter should vote for more than one of the judges, and minority representation was to have fair play. In practice, the political organizer counted the number of votes, and then made such a division that the party in the ascendancy should have both judges, although no voter voted for more than one person."

Mr. BECK, of Kentucky, said:

"My friend from Illinois [Mr. MARSHALL] has said that the present system is a wrong, a monstrous outrage; and he has repeated the statement again and again. * * * This is the system which has always been in operation. If there is any wrong or outrage it is one which has existed ever since the Constitution was framed; it is one which appertains to the system of representative government everywhere, for never on the face of the earth, so far as I have learned, has this system, which the gentleman seeks to apply, been in practice on an extensive scale, though it has been ably advocated here and elsewhere. * * * We have, say, one hundred thousand

Democratic votes in Kentucky, and the Republicans have, say, forty thousand. There was once a third party there, which may rise up again; judging from a speech which I have just read on the subject, it may command some fifteen thousand votes. Taking the two together, they may cast fifty-five thousand votes. Now, we have, say, one hundred thousand, and we are entitled to two Representatives. We nominate and we vote for them, and the Republicans and the third party each nominate a candidate, and so combine and cast their votes, voting twice for one man and dropping the other, that their man may have a more decided majority than either of ours. Thus the Democratic party, with more than twice as many votes as the largest wing, under this minority plan may be kept out of power. One of the majority candidates can be defeated to a certainty with these proportions; both cannot—it would be a set-off. But proportions could be stated by which the two could be kept out, and yet each of the two opposing factions be very little more than half as large as the party against which they have combined, so that the system would in my opinion be a system to give representation in many instances to minority factions, to the exclusion of majority representation as the Constitution and laws now provide."

Mr. BINGHAM, of Ohio, said:

"I know there is much in the proposition of a minority representation to commend it to right-minded men. But I know just as well, Mr. Speaker, that while it might work well in large communities, as in New York, for example, or Illinois, or Ohio, it might work ill in small communities where the whole wealth of the State is in the hands of a few corporations."

Mr. NIBLACK, of Indiana, said:

"If Ohio desires minority representation according to this method, Ohio knows how to procure it. If Illinois desires it, Illinois knows how to procure it. If the State of Rhode Island does not desire it, that State should be permitted to proceed according to the ancient method of determining elections, by a single ballot in the hand of each elector. That is my answer on that point, and that is all I desire to say on that subject, remarking, as I said before, that when this principle comes to be incorporated by the States in their legislation, and carried into practical operation, I trust it may prove beneficial; and I am inclined to believe that in large communities it will prove beneficial; but it is not the duty of Congress to compel the States to try the experiment."

Mr. MAYNARD, of Tennessee, said:

"The gentleman from Illinois says that the system has been attempted in the proposed constitution of his own State. I certainly hope it will work much better than I believe it will. I shall be gratified in this instance, as in every other, to find myself mistaken when I have the misfortune to differ with those who have the control of public affairs. But I expect to see in the gentleman's State, and wherever else this principle may be tried, the system of political management, of chicanery, of party machinery, carried to an extent that few have ever dreamed of. Why, sir, forty years ago 'King Caucus' was denounced as a tyrant whose reign was intolerable. Yet, if the system proposed in this amendment were carried out it would give 'King Caucus' a power which he has never yet had. We are told that this system is advocated by some *doctrinaires* across the water. The system may do there; but, in my opinion, it will not do here."

Mr. SCOFIELD, of Pennsylvania, said:

"A new question is raised by the amendment of the gentleman from Illinois [Mr. MARSHALL]. That amendment is worthy of consideration by the Committee on the Judiciary, and I think we ought to have from the committee a report, not only upon the practicability of what is proposed by the gentleman, but upon its constitutionality. It has been said by the gentleman from Illinois that we now practise in Pennsylvania the system which he proposes. So we do in the election of election officers, and it works well. It is the means of preserving the ballot-box in a great measure pure in that State. And although we have in Philadelphia a voting population as large as there is within the limits of New York city, or larger, we have rarely frauds there, simply because we have the cumulative system of voting in the selection of election officers. Every party is thus fairly represented by agents, the one to watch the other. There is the same system also, I am told, in the State of New York. I desire that the Judiciary Committee shall have an opportunity of considering this principle in its bearings and practical operation."

The bill and amendments were then recommitted by a vote of 96 to 94.

In May, 1871, a convention of the tax-payers of South Carolina assembled at Columbia, to take into consideration the condition of that State, and in the proceedings of that body a discussion of the subject of Minority Representation occupied a prominent part. On the 10th, a committee to which had been referred the question of the expediency of the cumulative system of voting, or such system as will protect the rights of minorities, reported in favor of the cumulative vote, and on the question of adopting the report a general discussion of the subject of Minority Representation was had.

In behalf of the report Mr. THOMAS said:

"That no new principle was suggested. In Europe and in portions of this country the subject had been considered and the principle to some extent applied. It provided a just and thorough representation both of political parties and of industrial interests, and was peculiarly applicable to the case of South Carolina. The mere majority rule had proved disastrous to the State, and upon her system of suffrage must be engrafted the principle of proportional representation."

Mr. GEO. A. TRENHOLM, ex-Confederate States Secretary of the Treasury, said:

"The principle of universal suffrage as a means of universal representation, commends itself to the approval of right-minded men in all countries. Statesmen oppose themselves to it in vain. It lies at the very foundation of every true Republican Government; and merits the support of all good citi-

zens. It is not against universal suffrage that we remonstrate; it is against the imperfect application of it. That mode of practical application prevailing, not in South Carolina alone, but in every State in this Union save one; a method by which, instead of universal representation, the entire minority, no matter how large that minority may be, is deprived of all representation whatsoever. It is against this great defect, this monstrous inequality, that we remonstrate, and for which we would institute a remedy. The one recommended by the committee is not new; it has been extensively discussed both in Europe and in this country, and has met with the sanction of many eminent men. In England, that great country, from whence we derive many of the most valued lessons of political government; amid an aristocracy of birth, wealth, and education, the principle of minority representation has been recognized and incorporated in the Constitution. This was done in 1867; and again in 1870 it was reaffirmed upon a motion to repeal the act of 1867. This motion was opposed by such statesmen as Bright and Gladstone, and defeated. What was the act of 1867, and why did those holding the supremacy in legislative power make the concession it involved? It gave one representative to the minority in every county entitled to three members of Parliament, and it wisely anticipated the time when universal suffrage would unsettle the tenure of political power; when those who now ruled the country might themselves be thrown into the minority. This principle of minority representation is what is recommended by the committee, and it comes with the sanction of an authority that is of the highest dignity with those on whom the decision of this question devolves. If there is any name revered above all others by the Republicans, it is that of Mr. Lincoln. And what do we perceive in the State from which Mr. Lincoln came? The Legislature of Illinois is represented to have been as incompetent as ours—representation as imperfect; and to cure these evils, the same as we are suffering from, they adopted in their election laws the very principle recommended by your committee—the principle of cumulative voting. By a vote of one hundred thousand majority, the people resolved to give to the minority that representation without which universal suffrage is not universal representation. I hope there will be no difference of opinion in the State on this question."

Mr. J. L. MANNING, ex-Governor of the State of South Carolina, moved to lay the report on the table, and said:

"The question seems to me, sir, to consist in this: Whether we, by this cumulative voting, shall be confined to one-third the power to which we are entitled. I, for one, am willing to bind myself by no such obligation. The history of the world shows us that the modifying influences of intelligence have their effects. This settlement of the question by the committee prevents any further discussion. To think that the people who controlled the Government of South Carolina from the time when it first became a colony—to think that they are to be confined to this one point, is a thought that seems to me is abhorrent to the mind of every enlightened man."

General M. W. GARY said:

"We have a majority against us of 30,000 votes, and even if, by a repeal of the present election laws, we could secure a fair election, this immense majority still remains. I am as far from surrendering my rights as any member of this Convention, nor am I willing to throw aside any principle. If we

can secure a respectable minority in the Legislative body, do we not gain a standpoint from which to work? I am not here to discuss abstract theories of government; we had enough of that in the days of Mr. Calhoun; but to meet a crying evil, to take a practical view of our anomalous condition; and I accept the cumulative system of voting in the same spirit that I would receive a half loaf as being better than no bread at all."

Mr. D. H. CHAMBERLAIN, Attorney-General of the State, said:

"In the first place, gentlemen, it is necessary to modify the absolute control which a mere numerical majority has obtained over the State, and to secure for intelligence and property a proper representation in the affairs of the government. And, looking about for some device which, without violence to the fundamental principle upon which our government rests, will bring relief from the grievances which afflict our people, I have fixed upon this system of cumulative voting, because it is not only just in its theory, but it will prove itself right in its results. It takes nothing from the rights of the majority. It gives them a predominating control, but not an absolute disposition of the entire fortunes of the State. Do you believe for a moment, then, when you put into an ignorant Assembly, many of whom can neither read nor write, forty-seven gentlemen, whom I might select in this body, that you would not shame them into decency, or frighten them from crime? Who does not know that the presence of one honest man puts to flight a band of robbers? Now, according to this system, you deny nothing which belongs to the majority, but from the moment you place in the lower house forty-seven of your ablest citizens, bad legislation will cease, and good legislation will begin."

The report was then adopted.

Shortly after the assemblage of the Forty-second Congress in December, 1871, the subject of Minority Representation again came under discussion. Pending the bill for the apportionment of representatives to Congress among the several States according to the ninth census, Mr. MARSHALL, of Illinois, moved December 11th to amend so much as provided for an increase in the number of Representatives from any State by inserting the following:

"In all elections of Representatives aforesaid each qualified voter may cast as many votes for one candidate as there are Representatives to be elected by the State at large, or may distribute the same, or equal parts thereof, among the candidates as he shall see fit, and the candidate receiving the greatest number of votes shall be declared elected."

In support of his amendment Mr. MARSHALL said:

"In the election in any State of more than one Representative by the State at large, the propriety of the amendment I have offered is manifest. Suppose that in Kentucky, Missouri, or in the State of Illinois, there should be two, three, four, or five additional Representatives to be elected by the State at large, to allow the majority party in the State to elect all of those

members, and to hold out a temptation to the Legislature to refuse to redistrict the State, thus depriving the minority of any representation through these additional members, would be an outrage which this Congress, I am sure, would not tolerate for one single moment."

Mr. DAWES, of Massachusetts, said:

"I think it would be an outrage, as the gentleman from Illinois [Mr. MARSHALL] has well said, to permit any State to elect three, four, or five members to this House on a general ticket. It would destroy all the benefits of the district system, which, since it has been adopted, seems to have worked well and to be acquiesced in by all parties. There may be difficulty in a single State which would justify the election of one member at large for one Congress, but to permit a State to elect four or five additional members on a general ticket would be such a violation of the rights of the minority, that there could be no justification for it whatever, and I hope it will not be done."

Mr. FARNSWORTH, of Illinois, said:

"My colleague [Mr. MARSHALL] in his amendment with reference to minority representation, goes a step farther than even the constitutional convention of Illinois, that provided for minority representation only in the case where three or four more Representatives were to be elected. He proposes to divide the apple where but two are to be elected, and to give the minority half. That is putting minority representation a little farther than anybody in my State ever thought of. No one there ever thought of giving the minority half. But it is only an experiment, and a very doubtful one at best, and I doubt very much the policy of incorporating it into an act of Congress in reference to apportionment."

December 14, Mr. MARSHALL's amendment again came under consideration, and Mr. KERR, of Indiana, said:

"I heartily approve the principle involved in that amendment—the principle of minority representation by the process of cumulative voting. It is demanded by the true spirit of our institutions and by the most obvious considerations of justice."

The amendment was rejected by 90 to 74.

March 11, 1872, Mr. MEEKER brought up in the California Assembly a bill to propose such an amendment to the State Constitution as would apply the cumulative vote to all elections, and said:

"The subject of minority representation has been engaging the attention of the most learned men and politicians for some time past, not only in this country but in Europe; and this amendment that I here propose—you have it all, printed, on your desks—has been incorporated into the Constitution of the enterprising, growing State of Illinois. * * * Let us apply this plan to the Board of Supervisors, supposing that there are twelve to be elected in a county. Then each voter has twelve votes. He will look over the list of nominations, twelve being nominated by each party, and he may choose to give his twelve votes to one candidate, or he may divide them

among two candidates, or three candidates, or four, or five, or six, or eight; or he may vote for all twelve, one each. Thus we have secured by this plan the election of the best men from both parties. That is the idea. It will secure the best men for both parties. Political conventions will not be the machinery controlling such elections, not being enabled to force upon the people a compulsory vote to a certain extent of the whole ticket without scratching. This privilege is given here by law; and I think it will work exceedingly well. It is termed by some rather 'complete representation' than 'minority representation.'"

Mr. DAYS said:

"He had known politicians who were considerable skirmishers among themselves, haunting the public houses and such other places where they would be best enabled to make a special fight for themselves, not caring particularly for the interests of the ticket they were upon, or of the men on the ticket with them. By adopting the amendment proposed they would be giving a premium, and a very large premium, in his opinion, for such procedures by that class of politicians. He could not think of any better plan to put money into the purses of those seeking to be bought up."

The bill was ordered engrossed, ayes, 30; noes, 20. March 30th, 1872, Minority Representation was discussed in the West Virginia Convention.

Mr. FITZHUGH said:

"He believed it to be just and right, and that it embodied in a fuller degree than had been heretofore practised the true theory of Republican government."

Mr. WHEAT said:

"He was something of an 'old fogy' and he believed in the correctness of the old rule that the majority should govern."

Mr. PENDLETON said:

"Its inherent fairness and justice would at once commend themselves to the approval of all who appreciated correctly the end it had in view. He insisted that it was not designed to, and could not set aside, the doctrine that the majority should rule; the majority would still retain its power to control the government in accordance with its will. * * * The chief defect in our republican system is the oppression of minorities, and he looked to the success of some plan of proportional representation as the only means of remedying this defect."

Hon. CHAS. J. FAULKNER, ex-United States Minister to France, said:

"He was in favor of the adoption of the principle of proportional representation in the Senate, but not in the House of Delegates. He thought that much less difficulty would result from its adoption in the Senate than

in the other house; that the change could be more readily effected, and that less alteration of the Constitution would be needed in that event. That would be going far enough by way of experiment, and the people could judge of the propriety of extending the principle farther."

The section under debate was then adopted by 41 to 22. Other debates have marked the year 1872, but the general drift in all is about as in the above.

CHAPTER III.

THE CUMULATIVE VOTE—ITS HISTORY—PRACTICAL OPERATION—ADOPTION IN ENGLAND, PENNSYLVANIA, WEST VIRGINIA, NEW YORK, AND UTAH—APPLICATION TO CORPORATE AND ECCLESIASTICAL ELECTIONS—ITS CONSTITUTIONALITY—DEFECTS.

THE Cumulative Vote gives every elector as many votes as there are persons to be chosen in his district, with liberty to bestow all those votes upon one candidate, or distribute them among several, in such proportions as he may see fit. If there are 4 representatives to be elected, he may give 1 vote to each of four candidates, or 1 to each of two candidates, and 2 to another, or 3 votes to one candidate and 1 to another, or, finally, may cast all his 4 votes for one. Where more than one vote is given a candidate, the elector is said to cumulate his votes, and hence the name given the method. Sometimes, also, from the liberty of choice it allows, it is called the Free Vote. The author of the process is Mr. JAMES GARTH MARSHALL, of England, who suggested the idea in a pamphlet letter to Lord JOHN RUSSELL, in 1853.

At that time Lord RUSSELL was endeavoring to provide for some representation of minorities, and Mr. MARSHALL proposed the cumulative vote as a method "more in harmony with long-established usage" than any which had been proposed to that end. The cumulative vote is, in fact, the present method of voting over again, except that the voter is at liberty to cast his votes as he will. As we now vote, if there are 3 Representatives to be chosen, each elector is allowed 3 votes, but can only cast them in one way, i.e., one vote for each of three candidates. If he desire to vote only for two candidates, one of his three votes must remain uncast; if he "scratches" all but one candidate, then two of his votes are lost. Under the cumulative vote the elector has as many votes as the present system gives him and no more; but then he may cast those votes as he will. He is

not obliged to give them in such and such a way, or not at all. His choice is free. His power is the same as it has always been, but the manner in which he shall use that power is left to his discretion, and not pointed out by law. Owing, perhaps, to this disinthralment of the voter's choice, the cumulative vote has attained more general favor than any other of the methods which have been proposed or adopted for the attainment of Minority, or Proportional, representation. It has been incorporated into law in England, Pennsylvania, Illinois, and West Virginia, and has received much favorable attention elsewhere in the United States.

In 1867 Mr. LOWE, at present the Chancellor of the Exchequer, brought forward a proposition in Parliament to apply the cumulative vote to some of the elections for that body, and though the method was in that form voted down in the Commons by a vote of 314 to 173, it was in the next Parliament, in 1870, applied to all elections of school boards under the New Education Act (Stat. 33 and 34 Vict., c. 75), section 29 whereof provides that:

> "At every such election every voter shall be entitled to a number of votes equal to the number of the members of the School Board to be elected, and may give all such votes to one candidate, or may so distribute them among the candidates as he thinks fit."

In November, 1870, elections were held throughout England under this act, and soon thereafter the Belgian Government requested the British Ministry to furnish it with some information as to the practical working of the new method of voting. Mr. THOMAS HARE was engaged by the Foreign Office for the purpose, and in May, 1871, drew up a paper entitled "Memorandum on the History, Working, and Results of Cumulative Voting," for a copy of which document the author of this work is indebted to the kindness of Mr. WALTER MORRISON, M.P. From this Memorandum, and from other sources of information, it sufficiently appears that the cumulative vote did not secure that proportional representation in the English school board elections of 1870, which was its aim. In Birmingham, where there were 15 directors to be elected, and where every voter had consequently 15 votes, 29,183 electors voted, and 435,083 votes were cast.

These votes were divided among 28 candidates in such a manner that the 15 who were elected received an aggregate of 283,850 votes, and the 13 unsuccessful candidates an aggregate of 151,233. Dividing these aggregates by 15 (the number of votes each elector had) to obtain the number of voters represented and unrepresented, it appears that the 15 candidates elected represented 18,889 voters, and that 10,114 voters threw away their votes on the 13 unsuccessful candidates and secured no representation at all. This exhibits even a greater ratio of disfranchisement or non-representation than that alluded to in the first chapter of this work as resulting from the present electoral system. That showed two men out of five non-represented, but this Birmingham election, under the cumulative vote, shows one man in three unrepresented. Another remarkable circumstance is, that while Birmingham is strongly Liberal in politics, 8 of the successful candidates at this election were Conservatives, 1 Independent, and 6 Liberals—the Conservative minority securing a majority of the representatives, and the Liberal majority a minority. Further still, 9 of the 13 unsuccessful candidates were Liberals, and the vote for those candidates must have been mainly a Liberal vote. This vote being an unrepresented vote, it follows that the bulk of the voters who failed to obtain any representation belonged to the majority party. These are curious results, and seem to infer that the cumulative method of voting was a decided failure at the Birmingham election, whereas it is only because the cumulative method was not followed that such results obtained. Forgetful of the fact that the very end and aim of cumulative voting is to give every party a representation proportioned to its popular strength, each party sought to obtain more representation than its due. There were some 53,000 registered voters in the city, about thus divided: Liberals, 28,000; Conservatives, 17,000; and Independents, or as they were locally called, "outsiders," 8,000; and a proportionate division of 15 directors among these parties would have given the Liberals 8 members, the Conservatives 5, and the Independents 2. Instead of being satisfied with this, each party struck for more than its due. The Independents nominated 5 candidates, the Conservatives 8, and the Liberals exceeding either of them in greed, sought to secure every one of the members by

nominating 15. Each party in consequence scattered its votes—sought, to use a homely phrase, to spread its butter over too big a piece of bread—and between the Liberals and the Independents who frittered their strength most, the Conservatives, who exceeded their just limits least, secured a majority of the directors. The poll stood: Liberals, 220,638 votes; Conservatives, 151,733; and Independents, 62,642; and 6 Liberal directors, 8 Conservative, and 1 Independent were elected. For their six successful candidates the Liberals cast 96,427 votes, and for their 9 unsuccessful candidates, 124,211; showing conclusively that if they had not tried to elect *all*, they might readily have secured the 8 directors justly belonging to them. Similarly, the Independents cast 35,120 of their votes for the candidate they elected, and 27,522 votes for their four unsuccessful candidates, whereas had they been satisfied to vote for but two, they could have given each of them 31,321 votes, and elected both. The two members lost by the Liberals, and the one member lost by the Independents by their overreaching were, of course, secured by the Conservatives, who cumulated their votes on 8 candidates and elected them all. So far, therefore, from the cumulative vote working badly at the Birmingham School Board election of 1870, the election resulted as it did, because the election was conducted in defiance of the requirements of that vote. In commenting generally on this election, Mr. HARE says:

"The effect of the cumulative vote on the large liberal party in Birmingham, which for the most part gave its support to fifteen selected candidates on the late School Board election, was to secure the return of no more than six of such candidates. The supporters of the fifteen polled altogether 220,638 votes, of which 96,427 were effectual in electing the candidates for whom they were given, while a majority of such votes, or no less than 124,211, were ineffectual, having no operation whatever, owing to their having been distributed among nine candidates, none of whom had sufficient votes to be returned. On the other hand, smaller parties, or minorities of the constituency, by the concentration of their votes on one, two, or three candidates, succeeded in electing them."

The same general results evidenced in this Birmingham election were apparent in elections held at the same time, and under the same act, in Sheffield, Lambeth, Manchester, and other towns. The greedy majority overreached itself, and by trying to gain more representation than its due, obtained less; small parties or

factions, by cumulating their votes heavily, or "plumping," elected candidates who otherwise would have remained in obscurity; and heavy masses of voters were left without representation by scattering their strength. In Sheffield the 15 successful candidates received 151,097 votes, and the 39 unsuccessful ones 80,712; in Lambeth there were 75,779 votes for the 5 successful, and 41,485 for the nine unsuccessful candidates, and in Manchester the 15 successful candidates polled 223,114 votes, and the 29 unsuccessful, 66,886. In some cases the vote for a favorite candidate was far in excess of that required for an election, Miss Garrett polling 47,858 in Marylebone and the candidate next to her only 13,494. In Finsbury, Mr. Tabrum had 27,858, and the next highest on the list but 10,766; in Wolverhampton the highest candidate had 10,029, and the next 6,902; in Sheffield the highest had 17,057, and the next 12,489, and so on. Further information as to these English School Board elections is furnished in the correspondence of the New York *World* at the time. Writing from London, Nov. 29, 1870, the day of the election in that city, the *World's* very intelligent and well-informed correspondent, "PICCADILLY," says:

"LONDON, Nov. 29.—The first election ever held by ballot in London is going on as I write, and I have spent a portion of the morning in visiting some of the voting places. This election, as I need scarcely remind you, is for the choice of forty-eight members to compose the School Board of London under the new education law, and, as at the election under the same law at Manchester last week, every rate-payer of either sex is entitled to vote, and each voter has as many votes as there are members to be chosen in his or her district. The following is a list of the districts, of the number of candidates running in each, and of the number to be elected:

	Candidates.	To be Elected.
City of London	9	4
Westminster	12	5
Marylebone	22	7
Finsbury	16	6
Greenwich	12	4
Chelsea	12	4
Tower Hamlets	10	5
Southwark	13	4
Lambeth	15	5
Hackney	16	4
Total	137	48

"There are about three hundred voting-places, and the polls, which opened at 8 this morning, will close at 8 to-night. Those which I visited were very quiet, and an American would have been amused at seeing the curious parody on American voting customs here and there exhibited. The polls were in school-houses, the basements of churches, and similar places. A solitary policeman stood at the door of each; and the voters, instead of handing in their ballots through the window, went into the room where sat the officers of the election, and where was arranged the curious machinery provided for by the new law. At one side of the room, behind a table, sat a gentleman called 'the President,' who had before him a book containing the names of the rate-payers of the district. The voter accosts this gentleman, gives his name, and if it be on the list, he receives a 'voting-paper.' If his name be not on the list the President kindly puts it on, and then gives him the voting-paper all the same. All the voter has to do is to say he is the occupier of a house in the district; no other questions are asked, and no oath is exacted. The 'voting-paper' the voter receives is in the following form:

Name of Candidate.	*Number of Votes given to each Candidate.*
Adams, John.	
Brown, Edward.	
Collins, Rev. David.	
Davis, Thomas.	
Edwards, Alexander.	
Fisher, Samuel.	
Gray, William.	
Harris, Ebenezer.	
Jones, Henry.	
Knight, Richard.	

"The voter has five votes, all of which he may give to one candidate, or distribute them as he pleases.

"The voter, with this paper in his hand, then proceeds to another part of the room, where he finds before him a nest of inclosed desks, very similar to ordinary square boxes, placed on their sides on a table, and having no lids. These boxes are about two feet square, and into one of them the voter puts his head and shoulders and marks against the names of his favored candidates (all printed upon the voting paper) the number of votes which he wishes to give for each, using a pen and ink which he finds before him, or a pencil if he prefers it, and writing either in words or figures. He must not sign his name, or he will invalidate his vote, and no other paper but that provided must be used. The voter then folds up his paper and puts it into the ballot-box which stands before the presiding officer, and must then walk out of the place. In case a voter cannot write, a clerk is appointed to fill up his paper according to his desire. In order to facilitate the voting a polling place had been appointed for nearly every ward or division, making nearly three hundred different voting places in London, These places, for the most part, are at the vestry-room or some convenient school-room arranged for the purpose, At one end of the room is the desk of the officiating officer, provided with piles of printed lists of the candidates. By his side is the ballot-box, a most decidedly plain-deal affair, like a small corn-bin, with a grinning aperture cut in the top. On either side of the room is ar-

ranged a series, three or four, of desks, each divided from the other by a partition of wood, like the desks at a telegraph station. On entering the room that much-detested officer, the tax-collector of your district, advances to meet you; but you do not tremble, not even if your last quarter's rates are unpaid, for you know that here he has no business with your money. He is, however, armed, but only with his books, in which he looks up your name and address and certifies your right to vote. You are then provided at the desk with a printed list containing the names of the candidates and a blank column, in which you write against the name of your favored candidate or candidates the number of votes you wish to bestow on him. With this you proceed to one of the cell-desks, and having, unseen, performed your duty to your candidate, you fold up the paper and slip it into the ever-gaping mouth of the ballot-box. Let us hope, however, that you have attended to the numerous printed directions which, in brotherly proximity to maps, illuminated texts, etc., are hung over the room. They inform you of the necessity of only giving the exact number of votes to which you are entitled, and also that on pain of invalidating your votes, you are not to sign your name to the paper."

A short time prior to the London election, Manchester voted under the New Education Act, and of this election the same correspondent writes thus:

"In Manchester there were fifteen members of the School Board to be elected, and each voter had 15 votes at his disposal. Forty-four candidates went to the polls, and over 390,000 were given by 26,513 voters. There are in Manchester no less than 62,000 rate-payers, so that the first surprising thing about the election is the self-evident fact that something like 36,000 voters abstained from going to vote. But the other results are still more astonishing. Manchester is famous for two things—first, the fervor of its Protestantism; second, the number, organization, and strength of its working-classes. But at this election the two Roman Catholics were brought in at the head of the poll, one of them receiving nearly 20,000 more votes than any Protestant candidate, and no working-class candidate, of whom there were seven, being elected at all, the highest vote any of them received being 3,854, while one of them got only 166. Here is the list of the successful candidates, with the votes given to each:

"Rev. Canon Toole, Roman Catholic	54,560
George Richardson, Roman Catholic	36,308
Wm. Birch, 'Philanthropist'	35,415
Herbert Birley, Episcopalian	34,026
Wm. B. Callender, Episcopalian	31,824
Robert Gladstone, Episcopalian	24,237
Thos. Dale, Episcopalian	20,688
Joseph Lamb, Episcopalian	22,987
Lydia Becker, 'No religion'	15,249
Richard Haworth, Wesleyan	13,137
Rev. W. McKerrow, Presbyterian	9,919
Robert Rumney, Presbyterian	9,510
Dr. John Watts, Unsectarian	8,861
John Cooper, Wesleyan	8,020
Oliver Heywood, Secularist	7,902

"The 90,868 votes given to the two Roman Catholic candidates were polled by about seven thousand voters, who either 'plumped' for the rever-

end gentleman who heads the list, or split their votes between him and the lawyer who follows him. The 133,762 votes given to the five Church of England candidates were polled by about nine thousand voters—so that it seems that in Manchester the relative strength of the Church of England and the Church of Rome is as nine to seven. It is quite clear that under the old system the former could have elected all the candidates, while the latter would have been unrepresented; but it is equally clear that these two parties under-estimated their own strength, and that between them they might have elected all the candidates but one. The Catholics might have had six instead of two candidates, and given each of them 15,144 votes: the Episcopalians might have had eight candidates, and given each of them 16,720 votes; while all that the other parties could have done would have been to elect the remaining candidate. These are the mysteries of the cumulative vote, now tried for the first time in England, but destined, no doubt, to be used for even more important purposes hereafter."

On the subject of these elections the Boston *Advertiser* commented at the time, thus:

"The cumulative vote has now been tried in London, in the election of a school board, and has been on the whole successful; but it has nevertheless developed some defects which may or may not be inseparable from it; time and further trial must decide. * * * In Hackney there were 14,744 voting papers or ballots admitted, and the total number of votes given was 73,575, or only 145 less than the total number possible. The first noticeable fact is, that no person who was elected was voted for by a majority of all the electors. Mr. C. Reed, M.P., who stood at the head of the poll, received 12,477 votes, made up as follows: 715 voters gave him five votes each; 52, four; 1,123, three; 1,854, two; and 1,617, one. The whole number who gave him any vote was 5,358. The second candidate was voted for by 3,771 persons, who gave him 8,472 votes in all, the proportion of votes being somewhat smaller in all the columns. These show the strength of men who were generally popular, not representing any decided policy, and apparently not having a great number of friends who regarded their claims to position as pre-eminent. We pass to an analysis of the votes for two candidates, one of whom was successful and the other not, who represented particular classes of the people and a fixed and definite policy. Mr. J. H. Crossman received 7,441 votes and was elected. His strength was made up as follows:

	Voters.	Total.
Ones	419	419
Twos	472	948
Threes	294	882
Fours	33	132
Fives	1,012	5,060
Total	2,230	7,441

"This shows that Mr. Crossman was indebted for his election to considerably less than one-sixth of the voters of Hackney, and for more than two-thirds of his strength to less than one-fourteenth of the whole. As the lowest number which secured an election in this case was 5,781, it follows that a concentration of the votes of 1,157 men in 'plumpers' of five, being much less than one-tenth of all the voters, would have carried the day. No stronger evidence of the power of a minority well-organized could be given. The other example we would give is that of the Rev. W. Lockhart, a Roman

Catholic priest, who was zealously supported by his fellow-religionists. The following is an analysis of his vote:

	Voters.	Total.
Ones	206	206
Twos	136	272
Threes	79	237
Fours	20	80
Fives	670	3,350
Total	1,111	4,145

"This is hardly so strong an example of the power of a few men under this system, but is an indication of it, nevertheless. And the electors who voted more or less for Mr. Lockhart may console themselves with the thought that had they concentrated their entire strength upon him they would still have come nearly three hundred votes short of electing him."

Mr. HARE has also some comments in his "Memorandum," heretofore mentioned, on the practical workings of the cumulative vote, and that portion of his paper will be here subjoined in full:

"*Complaints of the Effect of the Cumulative Vote.*

"The National Education League has issued a pamphlet, which may be regarded as its summary of objections. These may be considered under four heads:

"A.—First, it is argued that the principle on which the cumulative vote rests is fallacious: that minority representation is either a nullity or a mischief: If only proportionate in numbers the minority will always be outvoted: That the national policy of recent years, such as freedom of trade, and other great innovations and improvements, would have been frustrated if Parliament had been elected in batches of nine, eleven, or fifteen. It insists, in fact, that minorities, though permitted to discuss, should be altogether driven from the field of action. It does not admit that the election is for the choice of a deliberate body, the necessary presence of whose members, supplied by the best materials for judgment at the place of legislation, together with their concentrated attention and individual responsibility, are to be relied on for dealing wisely with the great and novel problems that constantly arise in the changing conditions of modern life. It assumes that the constitution of tribunals, the boundaries of the civil rights of person and property, the system of national defence, all internal organization for public instruction, national and local taxation, and the treatment of pauperism, and the conditions of colonial and foreign intercourse, are all to be finally determined by the votes at the hustings, the person chosen being no more than the bearer of the decree to the house of delegates. If this be so, the election is an idle ceremony. Appointing messengers, called representatives, is a clumsy and unnecessary contrivance, maintained at a useless cost. All that is wanted is a clerk at every hustings to register the decision, and send it by post or telegraph to the central bureau.

"B.—Secondly, that it increases the power of party organizations, giving scope to intensity of feeling or fanaticism, whether of the elector himself or those who influence him, his power being in the proportion of his personal earnestness or docility. That it has thus led to voting according to prepared lists, without any proper discrimination by the public of the individual merit of those for whom they vote. On this complaint it must be

observed that it was the larger party in Birmingham—the 14,000 who adhered together—which exhibited the most complete example of voting according to a list, if that be any reproach. It may fairly be inquired whether the true ground of this complaint is, not that organization and its consequent influence have been employed, but that the pre-existing organization has been partially overpowered. Under the exclusive majority system, organization is indispensable to the selection of the party candidates, and their restriction to the necessary number, unless it can be supposed that, by some miracle of intuition, the whole party is at once led to adopt, without any differences, the favorite candidates, and that all other than the favorite list acquiesce and waive their pretensions. The grievance felt by the opponents of the cumulative vote rather is that it has introduced new and different organizations not of the whole party, but of sections and classes of opinion. Of the two consequences, it may be fairly contended that the organization brought into play by the cumulative vote is, in the view of those who really believe that the people are to be trusted, and that public opinion should be in truth consulted, far preferable, inasmuch as it gives more scope to individuality of thought, and the free representation of individual opinion. The vote is given with greater sincerity, and the aggregate result in moderating or graduating political action is free from the danger to which order and Government are exposed by efforts to give exaggerated force to large majorities. Dependence on electoral organization, though not more chargeable to the cumulative vote than to the majority system, is in itself an evil to be encountered by other remedies.

"C.—Thirdly, it is said to suppress rather than elicit public opinion. The fact that nearly half the constituencies abstained from voting at the school board elections is attributed apparently to two causes, the greater length of the list of candidates, and the intricacies of the voting-paper; the primary cause of both being, it is said, the form of vote. These combined causes raised, it is said, insuperable difficulties in the way of the election of working-men, although they did not prevent a candidate in Birmingham, alleged to be supported by a community mainly composed of Irish laborers, from arriving at the head of the poll. It cannot be meant to be implied that others were too stupid to understand and too obstinate to be taught, but rather that they did not care to take the pains. It is matter of serious regret that of five candidates of the artisan class in London only one was elected. Members in a different sphere of life may be well able to construct and organize a scheme for establishing the necessary elementary schools, but the teaching of experience has never led them to realize the difficulty of inducing or enabling the poor, in their present condition, thoroughly to appreciate, and still less to prolong, the education of their children; and it may be long before the means are devised, by the use of endowments or otherwise, of bridging over the chasm of apathy and ignorance left by ages of neglect. It is, however, more probable than otherwise that, without the cumulative vote, even the solitary member of that class would have been excluded. There is no evidence that any voters were kept from the poll by the form of vote. If it gave expression to every diversity of opinion, it is hard to see how it could render the electors more apathetic, and the greater choice of candidates is surely calculated to excite rather than repress effort to promote the election of one or more of them. Looking forward to the future, any apparent intricacy in filling up the paper would be more easily met by some arrangement to instruct the voters where necessary, rather than by impairing the intelligent result of the vote.

"D.—Fourthly, that it creates an inducement for too many candidates to offer themselves, whereby votes are wasted and lost.

"The cumulative method, in common with any other method that encourages the development of more varied thought, by giving more perfect representation to majorities as well as to minorities, necessarily presents inducements for candidates to come forward who, without that encouragement, would not have appeared. In a multitude of cases, these, either from attraction or aversion, provoke the activity of electors who would not otherwise have taken the pains to vote. To the extent in which the supernumerary candidates attract voters who ordinarily unite with any of the greater political parties, they must withdraw so much from the force of the latter, and add to that of smaller sections of the people. It is true, also, that the accumulated power thus given to minorities is increased by the disposition of electors, who are thereby more encouraged to 'plump,' or give their entire voting power, for particular and favorite candidates, lest they should otherwise be defeated. The application of the proportional system in a more perfect form is needed, not a lessening of the number of candidates. The widening of the electoral choice must be desirable, if the object be true representation.

"*The Loss of Votes, together with the Necessity for, and the Power acquired by, Party Organization in the School Board Elections, and how far such evils are attributable to the Cumulative Vote.*

"The double mischief here complained of, and of which examples have been given, are not created by or peculiar to, although they, perhaps, are more prominently shown by, cumulative voting. They exist, if not in a more aggravated shape, yet in one which it is more difficult to encounter, under the prevailing majority system.

"First, in regard to the loss of votes, the cumulative system, as hitherto applied, is open to the same objections as the majority system, that both the surplus votes given to candidates who may be highly popular, and the ineffectual votes given to candidates who fail, are thrown away. The former, the loss of surplus votes, may, in open voting, be more or less avoided, by ascertaining and making known at the shortest possible intervals the number of votes polled for every candidate; but the utmost care would scarcely prevent considerable loss, and it may afford an opportunity for trickery and party manœuvres; and in secret voting it is irremediable, except in a manner hereafter explained (Section 16).* The latter infirmity, the loss of votes from the candidates for whom they are given being unsuccessful, cannot, under the method in use, be recovered, although this loss, it will be seen (Section 17),* is also susceptible of a remedy.

"The cumulative system does, however, offer the means of preventing a loss of votes, of which its opponents take no account, that is, the votes of all those who, disagreeing with the majority in their electoral district, are now, in Parliamentary elections, outvoted and left without representatives, a number which cannot ordinarily be taken at less than two-fifths of the whole electoral body, or 400,000 out of 1,000,000 votes. It is, therefore, even in the rude form in which it has been adopted, a vast economy of electoral power.

"Secondly, as to party organization. The utmost which the cumulative system has done is to preserve it, and that, as it has been already said, in an ameliorated form—one better suited to the character of mankind, and the diversities of sentiment and opinion. Instead of being called 'minority' representation, a truer appellation would be 'the better representation of majorities.'"

* Mr. Hare here refers to preferential voting, of which hereafter.

Of the various incidents of the cumulative vote we will speak hereafter, but for the present let us consider its practical operation further. England is not the only country in which the method has been tried. Through the efforts of United States Senator BUCKALEW, the Legislature of Pennsylvania passed an act on the 4th of March, 1870, applying the principles of the cumulative, or, as Mr. Buckalew prefers to call it, the Free, vote to the then approaching borough or town election of Bloomsburg, the place of the Senator's residence. The section of this act referring to the cumulative vote is as follows:

"SECTION 4. To the end that the electors of Bloomsburg may exercise their right of suffrage freely and without undue constraint, and may obtain for themselves complete representation in their local government, the plan of the free vote shall be lawful and is hereby authorized in the elections for officers of said town and for all officers to be chosen by them exclusively. In any case where more persons than one are to be chosen in said town to the same office, for the same time or term of service, each voter duly qualified shall be entitled to as many votes as the number of persons to be so chosen, and may poll his votes as follows, to wit:

"*First*, When two persons are to be chosen he may give one vote to each of two candidates, or two votes to one.

"*Second*, When three persons are to be chosen he may give one vote to each of three candidates, two votes to one candidate and one to another, one vote and a half to each of two candidates, or three votes to one.

"*Third*, When four persons are to be chosen he may give one vote to each of four candidates, one vote and one-third to each of three, two votes to each of two, or four votes to one.

"*Fourth*, When six persons are to be chosen he may give one vote to each of six candidates, one vote and a half to each of four, two votes to each of three, three votes to each of two, or six votes to one.

"In every case the candidates highest in vote shall be declared elected. Whenever a voter shall intend to give more votes than one, or to give a fraction of a vote to any candidate, he shall express his intention distinctly and clearly upon the face of his ballot, otherwise but one vote shall be counted and allowed to such candidate. This section shall apply to the choice of school directors and of all officers to be chosen exclusively by the electors of said town whenever its application shall be possible."

On the 12th of April succeeding the passage of this act, the first election under its provisions was held in Bloomsburg, and from the local correspondence of the New York *World* at the time is taken the following account:

BLOOMSBURG, Pa., April 16, 1870.

"This Pennsylvania town, with a population of a little over six thousand, is the home, as you may know, of Hon. Charles R. Buckalew, who was one of our United States Senators last year, in the seat now filled by Hon. John Scott. Mr. Buckalew has a great deal of influence here, where we carry the Democratic ticket pretty generally, though not by a large majority, and as he has taken a great deal of interest in the subject of representative reform, our citizens were disposed to support him in an effort to have what he calls

'the free vote' tried. Accordingly the Legislature passed 'an act to define the limits and to organize the town of Bloomsburg,' not long since, and in the act inserted a provision suggested by Mr. Buckalew, in reference to the President and members of the Town Council. The council was ordered to consist of six members; and, as we go Democratic, if the election had been ordered in the old way we would have carried all six. As it was, it was thought fair to give the Radicals a chance and the 'free vote' was ordered, that is, every man might give one vote to each of six candidates, or distribute his votes among a less number as he might wish, but in such a way as not to have any fractions less than a half. Perhaps the exact words of the act, however, will explain this better. The fourth section says:

"When six persons are to be chosen, each voter may give one vote to each of six persons, one vote and a half to each of four, two votes to each of three, three votes to each of two, or six votes to one.

"The prohibition here implied against dividing the votes unequally, was meant to prevent confusion, and the omission of the case of a man wishing to give his six votes to five candidates is due to a belief that such a case was so improbable that it was not worth while to provide for it. This being the law, and it being very novel, and the election being to organize our town government on a stable basis, there was quite a good deal of interest shown in the election. It came off on Tuesday of this week, the 12th inst., and resulted in a very general approval of the new plan. The Democrats nominated Robert F. Clark for President of the Town Council, and Messrs. W. B. Koons, Stephen Knorr, and Fred. C. Eyer as Councilmen. The Radicals did not seem to understand the new law very well, and though no formal Radical ticket was put out, the bulk of that party with some others formed a People's ticket, with a candidate for President of the Council, and a full ticket of six candidates for the Council. The nominee for President declined, and then, as the law came to be better understood, the ticket was remodelled so that the People's ticket finally stood, Elias Mendenhall for President, and James Sharpless, Caleb Barton, Charles G. Barkley, and S. C. Shive for Council.

"Senator Buckalew cast the first vote, and then the balance of the day the election went on as usual, the voters each voting the ticket he favored, and the vote counting under the law, each of the three candidates on the Democratic ticket being credited with two votes, and each of the four People's ticket nominees with one and a half. The voting for President of the Council was in the old way. The total number of votes cast was a little over four hundred, though the voting strength of the town in all is 650, and the polls stood:

For President of the Council:	
Elias Mendenhall (Opp., Dem.)	213
Robert F. Clark (Dem.)	202
Majority	11
For Councilmen:	
1. Charles G. Barkley (Opp., Dem.)	429
2. William B. Koons (Dem.)	393½
3. Joseph Sharpless (Opp., Rad.)	392
4. Caleb Barton (Opp., Rad.)	364
5. Fred'k C. Eyer (Dem.)	362½
6. Stephen Knorr (Dem.)	297
7. S. C. Shive (Opp., Dem.)	260½
8. Scattering	35½
Total votes	2,534
Total voters	422

"By this you will see that the three regular Democratic nominees were elected, and two Radicals and one Democrat on the fusion or People's ticket. In the old way the Council would have been all Democrats. The election passed off very quietly, though much interest was displayed in the working of the new system."

Referring to this letter, the *World* said:

"There will be found in this issue a letter giving some particulars of the late election at Bloomsburg, the Pennsylvania town where, as mentioned some days since in a news paragraph, the plan of conducting an election by what is known as 'the free vote' was tried for the first time in the political history of the United States. Our correspondent gives a pretty clear account of the proceedings, and states that the new method met the popular approbation, which may be regarded as a crucial test. It takes a good, stout arm to meet the rough usage of the private soldier in active service; and, so, many fine-spun electoral theories, very beautiful in the study, would soon founder in the hurly-burly of a popular election, its scratching of tickets, trading votes, careless ballots, and other ordinary incidents. Taking it for granted that the Bloomsburg election was in these respects like all other elections—and, indeed, our correspondent, in telling us there was a fusion ticket, tells of extra confusion—the new law worked with a smoothness that must disarm any criticism on the score, at least, of easy operation."

Commenting on the election, a local paper, the *Columbian and Democrat*, said:

"Our town election on Tuesday last (April 12) tested the merit of reformed voting in a satisfactory manner, and gave to it the sanction of popular opinion for the future. Theoretically it had been accepted by reflecting men in our community as just and expedient, but as an untried plan it was still open to question among the mass of our people. Now, all doubts of its utility, fairness, and practicability have disappeared forever."

On the heels of this election, the Legislature of Pennsylvania, at the same session, extended the cumulative vote to several other boroughs, and at its next session extended that vote by act of June 2, 1871, to all borough elections throughout the State. The third section of this general act reads thus:

"SECTION 3. In elections for members of town councils, each voter may, at his option, bestow his votes singly upon six candidates, or cumulate them upon any less number in the manner authorized by the fourth section of the act to define the limits and to organize the town of Bloomsburg, approved March 4, 1870; and vacancies in any such council shall be filled in the manner provided in the fifth section of the same act."

The fourth section of the Bloomsburg act here referred to, will be found in full above; by the fifth section of the same act, any vacancy in a borough council is to be filled by the court of quarter sessions of the county in which the borough is situate

appointing an elector thereof, "who shall have voted for the councilman whose place is to be filled."

Further accounts of the operation of these Pennsylvania acts are furnished by Senator BUCKALEW thus:

"In Northumberland borough at the election in October, 1870, there was a Republican majority of 10 for Burgess. Very properly each party nominated only three Councilmen, although six were to be chosen, because the free vote applied to the election of those officers. The result was that the Democrats, giving each two votes to each of their three candidates, elected them, but one of the Republican candidates was beaten by a Republican volunteer. As this case illustrates the working of the free vote, we give the facts as we understand them to have occurred. At the Republican meeting to nominate Councilmen, a gentleman who expected to be nominated was defeated by the arts or influence of a personal enemy who immediately afterwards boasted of the achievement. The friends of the beaten man became indignant, and concluded to rectify the injustice done by electing him as an independent candidate. The free vote afforded them the ready means of accomplishing their purpose, and they proceeded at the election to vote plumpers of six votes for their friend, and carried him through the contest triumphantly. Without disturbing the results of the election generally, they carried their man and secured representation for themselves in the council according to their desire.

"Bolting a nomination under the new plan of voting means, then, that commonly the bolters can obtain their due share of power and no more, and that the whole election cannot be turned up-side-down or changed throughout by them. One-sixth of the voters of Northumberland can elect one councilman, but they cannot disturb the other voters of the town in choosing the remaining five. Under the old cut-throat majority rule the bolters would have been compelled to form a combination with the opposite party, or to trade or buy votes, in order to succeed; the whole election would probably have been muddled or disgraced, and one party or the other would have carried more than its share of the officers to be elected.

VOTE FOR DIRECTORS OF THE POOR FOR THE BLOOM POOR DISTRICT.

	Miller.	Kramer.	Ikeler.	Schuyler.
Bloom, E	232½	222	226½	163½
Bloom, W	132	123	223½	180
Greenwood	227	235½	346½	127½
Sugar-loaf	180	180	12	10½
Scott	151½	145½	364½	12
	933	906	1,173	493½

"Stephen H. Miller and William Kramer, Democrats, and Johnson H. Ikeler, Republican, are therefore elected, for three-year terms commencing on the first day of April next. These officers being chosen on the plan of the free vote, pursuant to a special act approved March 28th, 1870, it was inevitable that they would be divided between the two political parties accord-

ing to a just principle of representation. The majority in the district would be able to elect two and the minority one. The Democrats therefore voted tickets in the following form:

"Stephen H. Miller, 1½ votes.

"William Kramer, 1½ votes.

"The Republicans nominated two candidates also, and tickets for them were prepared in the same form; but as they had not votes enough to elect both, they finally concentrated their vote mainly upon Ikeler, as shown in the above return. The election at last became to them a question of choice or preference between their own candidates, and the result shows that they preferred Ikeler.

The Bloomsburg Town Election—The Free Vote.

"The second election in Bloomsburg for town officers under the plan of reformed voting, was held October 18, 1870, in connection with the general election. There were to be chosen two Constables; two Assessors of taxes; two assistant assessors; two School Directors, and three Town Auditors. Each party nominated a ticket in the same form. The Democratic ticket was as follows:

"*Constable*—Martin C. Woodward, 2 votes.

"*Assessor*—John K. Grotz, 2 votes.

"*Assistant Assessor*—Frederick C. Eyer, 2 votes.

"*School Director*—Charles W. Miller, 2 votes.

"*Town Auditors*—John B. Casey, 1½ votes; B. Frank Zarr, 1½ votes.

"The Republican ticket being arranged in the same manner, with other names, it was certain from the outset that *all* the candidates of both parties would be elected except one of those for Auditor. The majority would carry two Auditors and the minority but one. There was, therefore, very smooth work in the election of local officers; an absence of animosity and sharp management; no trading of votes, and no necessity to struggle for a majority in order to avoid defeat and virtual disfranchisement. *Each party obtained its share of the town offices by its own votes.*

"We append the vote for the several officers chosen under the new plan.

Constables.	
Martin C. Woodward	753
Baltzer T. Laycock	368
Assessors.	
John K. Grotz	498
Joseph Sharpless	654
Assistant Assessors.	
Frederick C. Eyer	494
Samuel Shaffer, Sr.	640
School Directors.	
Charles W. Miller	502
Jacob K. Edgar	628
Town Auditors.	
John B. Casey	367½
B. Frank Zarr	366
F. P. Drinker	490½
Ephraim P. Lutz	481½

"All the above are elected except the one lowest in vote for Auditor. The Republicans in *italics.*"

Except in Pennsylvania the cumulative vote had not, up to May, 1872, been put in operation in the United States, but it has been adopted in several of the States for future use, and has received very general approval throughout the country. The history of the action taken upon it is as follows:

In the New York Convention of 1867 it was strongly urged, as will appear in reference to the debates in that body, as given in the second chapter of this work. On the 11th of July, 1867, the Senate of the United States, then having under consideration a supplementary reconstruction bill, Mr. BUCKALEW introduced and spoke to the following amendment, which was, however, lost:

"*And be it further enacted*, That in the election of Representatives in Congress from the said States mentioned in the act of March 2, 1867, each elector shall be entitled to give as many votes as there are Representatives assigned to his State by apportionment of law, and he may give one vote to each of the requisite number of persons to be chosen, or may cumulate his votes and bestow them at his discretion upon one or more candidates less in number than the whole number of Representatives to be chosen from such State."

On the 13th of January, 1869, Mr. BUCKALEW brought in the subjoined bill, which was read twice and referred to a special committee consisting of Messrs. Buckalew, Anthony, Terry, Morton, Warner, Rice, and Wade:

"A BILL to amend the representation of the people in Congress.

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in elections for the choice of representatives to the Congress of the United States, whenever more than one representative is to be chosen from a State, each elector of such State, duly qualified, shall be entitled to a number of votes equal to the number of representatives to be chosen from the State, and may give all such votes to one candidate, or may distribute them, equally or unequally, among a greater number of candidates; and the candidates highest in vote upon the return shall be declared elected."

On the 2d of March following, Mr. WADE, from the Select Committee on Representative Reform, reported the bill without amendment, and Mr. BUCKALEW accompanied this report with another upon the merits of the proposed plan.

The essential portions of this report (Senate document, 40th Congress, 3d Sess. Rep. Com. No. 271) are as follows:

"We proceed to state the main reasons for the unrestricted vote, without dwelling upon introductory points or upon those secondary reasons which, while they may commend this plan of reform to us, will not alone command its adoption. Those great reasons (which speak with imperative voice to statesmen and to free constituencies everywhere) are:

"*It is just.*

"The unrestricted or free vote should be permitted because it is just. It gives an equal voice to every elector of a State, secures the elector from the peril of utter disfranchisement, and affords to him also that freedom of choice which is indispensable to his complete and useful exercise of his right. A vote at any point or place in the State is precisely as valuable and as important as at any other point or place; location of the voter is immaterial as affecting his right or his consequence in the electoral body, and no preference in privilege or power is given or advantage allowed to one elector over another. Besides (and this is the great consideration), any material disfranchisement of electors is rendered almost impossible; for every political interest, of any considerable magnitude in a State, will have the complete opportunity afforded it of concentrating its vote upon a proper number of candidates, and those candidates will be chosen, not merely because they have more votes than other candidates (as under our present system), but because they are the recipients of an adequate support. Lastly, it is but just that the elector should have a greater freedom of choice than is now allowed him, that his judgment should have freer action, that he should enjoy all possible facilities for performing his duty to his country in exercising his right of suffrage. At present he is hedged about and constrained by legal regulations which, while wholly unnecessary to the public order and peace, cripple and impede him in the performance of his duty. He is held responsible for the character and action of the government, for in theory he controls it by his vote, and yet he does not possess all those facilities and rights the possession of which will justify that responsibility and enable him to discharge all its obligations. * * * The law has been busy where it should have been inactive, and the voter is bound by inconvenient and injurious restrictions, which he can neither evade nor defy. It is time that the hand of power be lifted from the citizen and he be permitted to perform his electoral duties with all possible freedom.

"*It will check corruption.*

"The unrestricted or free vote will greatly check corruption at elections. It will take away the motive to corrupt, and thus strike an effectual blow at the source of a great evil.

"Now, money and patronage are usually expended upon elections to secure a majority or plurality vote to one or more candidates over one or more other candidates, and are directed or applied to the comparatively small number of electors in the constituency who hold the balance of power between parties. Those persons being bought or seduced, victory is secured. The importation of voters into a State or district, or their fraudulent creation within it, is with a like object. And such corrupt influence or practice when resorted to by one party, provokes like conduct in an opposing one, until both become tainted with guilt, and unfitted for vindicating the purity of elections. This evil grows in magnitude yearly, and it will continue to increase until those motives of interest which produce it shall be weakened or destroyed.

"But why will the cumulative or unrestricted vote check corruption?

It will have this certain effect, it will operate efficiently to this end, because it will render any ordinary effort of corruption useless and unavailing. *The corruption of voters will not change the result of an election. It will elect no candidate and defeat no candidate* in contested States or districts, unless, indeed, it be carried on and carried out upon a gigantic scale, beyond any ordinary example of the past or probable occurrence of the future.

"An average or common ratio of votes for a representative in Congress, taking the whole country together, is now 25,000, and it will be much greater in future times. Assume, then, that 600,000 votes are to be cast in Pennsylvania at an election, of which each political party has one-half, and that 24 representatives are to be chosen. This is a supposition very nearly conformed to actual numbers in that State. Now it is evident that either political party, by resorting to the cumulative vote, can elect 12 representatives, and thus secure to itself exact and just representation, and no art or effort of the opposite party can prevent it. But suppose, further, that corruption shall assail the election, and that some thousands of votes shall be changed thereby, or that in the interest of one of the parties so many as 10,000 or 20,000 voters shall be imported into the State, or be fraudulently created or personated within it, in either case there will be no effect produced; the result will be unchanged; in short, in the case supposed, a fraudulent *increase* of its vote (and of the total vote) by a party, to the extent of 20,000, will not give to it any advantage, nor will its corrupt acquisition of 5,000 or 10,000 votes from the opposite party. It follows that corruption will in no ordinary case be resorted to; it will be effectually discouraged and prevented. And even in the extreme case of the corruption of a large number of voters in a State, the resulting evil will be reduced to its minimum.

"*It will improve the character and ability of the House.*

"The unrestricted or free vote will secure men of ability and experience in the House of Representatives. It is believed that changes are now too frequent in that House, and that the public interests suffer detriment from this cause. * * * The idea of assigning a representative by law to a special district within a State is naturally supplemented by the idea of rotation in the representative privilege among the localities within the district. Hence, very commonly party nominations are made in turn to the several counties, parishes, or other municipal divisions of the district, which necessitates the frequent selection of new men for representative nomination. * * * Changes of party power in districts, where one party does not largely predominate over another, are at all times likely to occur, and to defeat the member of the House from the district, although his own party may desire to continue him in the public service. * * * We are driven to the cumulative or free vote as the practicable and effectual measure of reform. It will continue members of merit for long periods of time in the House, because it will relieve them and those who support them from the causes of change above mentioned. They can be re-elected with certainty so long as the party whose representatives they are desire their continuance in service, and it may be reasonably expected that some men of distinction and intellectual power will always be found in the House whose period of service counts by 20 or 30 years. They will be the great representatives of party, and will give lustre and power and usefulness to the House, while they will be the objects of profound attachment and of honest pride in the States they represent. Congress will become, much more than at present, a theatre of statesmanship and a fit representative of a great people, whose extended territory, diverse populations, and varied interests demand great ability and wisdom in the enactment of the laws. Our present system, admirably calculated to repress merit and

lift mediocrity, will be supplanted by one which will produce precisely the opposite result."

The Committee mention as a fourth argument in favor of the cumulative vote, that it will be a guarantee of peace by giving minorities a voice in legislative halls, proportionate to their strength, and thus prevent many causes of dissatisfaction and turbulence.

In 1869–70, the State Convention to revise the Constitution of Illinois inserted in the instrument framed by it and ratified by the people, July 2, 1870, the following provision:

"The General Assembly shall provide, by law, that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors, multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner."—ART. XI., § 3.

To a separate vote the Convention also submitted the following, which was ratified at the same election by a vote of 99,020 for, to 70,079 against; majority for, 28,941:

"The House of Representatives shall consist of three times the number of the members of the Senate [51], and the term of office shall be two years. Three Representatives shall be elected in each senatorial district at the general election in the year of our Lord, 1872, and every two years thereafter. In all elections of Representatives aforesaid, each qualified voter may cast as many votes for one candidate as there are Representatives to be elected, or may distribute the same, or equal parts thereof, among the candidates, as he shall see fit, and the candidates highest in votes shall be declared elected."

Under this plan it can be seen that the minority party in any district can, by concentrating its strength, infallibly secure at least one of the three members, and that in no case can the majority, as now, elect the whole delegation merely by being the majority. Thus, in the case of St. Clair county, which cast at the Presidential election of 1868 a Democratic vote of 3,269, and a Republican of 4,814—if the county were a district under the old plan the legislative delegation would be all Republican, whereas, by the new system, two Republican members and one Democrat are insured. In the same way in Sangamon county, which has a Democratic majority, all three members would be Democrats by mere majority voting, but with Minority Represen-

tation the Republicans would secure one member out of the three. Carrying the principle throughout the State, it appears that representation is much more equitably proportioned than by the mere majority rule. For years the northern and central portions of Illinois have sent almost solid delegations of Republicans to the Legislature, while from Egypt, or the southern part of the State, have come up equally unbroken Democratic delegations. By the cumulative vote the long-excluded Democrats of northern and the long-disfranchised Republicans of southern Illinois are admitted to representation. The vote on this section was, for Minority Representation, 99,020; against Minority Representation, 70,079; majority for, 28,941.

June 1, 1870, the Episcopal Diocesan Convention of New Jersey adopted, on motion of Rev. Dr. GARRISON, the following Canon:

"In all elections by ballot each voter shall be entitled to as many votes as there are persons to be elected, which votes he may cast all for one name, or may divide them among any number not exceeding the whole number to be voted for, and any ticket having such excess shall be rejected."

The following letter on the subject of this Canon from Dr. GARRISON to Mr. H. R. Droop, of London, appears in Mr. Hare's "Memorandum."

"CAMDEN, NEW JERSEY, *July* 21, 1870.

"DEAR SIR: I have received, and read with much interest, your pamphlet on Minority Representation, and the accompanying Parliamentary debate, on a clause to the same effect as the Canon which was moved by me in our Diocesan Convention, and adopted by that body.

"The question has excited considerable attention in this country from the universally felt evils of mere party voting, many of which you have ably stated in your paper, but the most serious of which you have not dwelt upon, probably because your country has not yet had experience of it to any great extent, and that is, the system of nomination by primary meetings. In these the candidates of the respective parties are selected by delegates from the local parties' societies. And the procedure seems on the surface to give a fair expression of the sense of the party as to the choice of the candidates, but in reality these local meetings are generally attended and manipulated by the professed politicians, and their hangers-on of the lower classes, who often, by combinations among themselves, known here as 'rings,' manage to control the major part of the nominations in their own interest, and regardless of the true wishes of even the party they are assumed to represent. And thus very frequently a party finds itself committed to support many candidates who are utterly distasteful; or, by the mere scratching by individuals of an obnoxious name and the insertion of one of the opposite party, to exercise the feeble influence of one vote, generally a vain endeavor to nullify the evil. This was the case with the Democratic party in Philadelphia last

fall, when a set of roughs took possession of the nominating Convention, and put on men who were notoriously unworthy; and the same have been repeated in the last few weeks in the Republican Convention of that same city. The encouragement to this thing is derived wholly from the system of majority voting, as experience shows that generally the ticket, as a whole, stands or falls together; whereas, if there were a mode by which there could be a concentration of force upon the acknowledged good men, with a reasonable prospect of electing them, the great stimulus to this degrading struggle for nomination would be removed, and the real sense of the whole party given, not merely on a mixed ticket of good and bad, but on the individuals of the ticket, according to their respective characters. It is, perhaps, this feature of our system which, as much as any other, is forcing upon the minds of the best men of all parties the consideration of some such measure as Senator Buckalew proposed in our Senate, and you, in substance, approve in your pamphlet.

"The reason for the introduction into our Diocesan Convention of the Canon relating to this subject was the feeling upon my part—although my own ecclesiastical connection has been mainly with the majority in that body —that in a religious assemblage above all others, there should be a full and fair opportunity for the representation of every phase of opinion allowable within its pale; and that the only way to secure practical co-operation on the general work of such a body was to insure a fair weight to all its important elements. I had been endeavoring for many years to effect this, but with very little success, and was not surprised when the Convention on the Canon reported unfavorably. But, at the request of several of the legal lay deputies, I called it up for consideration after the Report, and found it, most unexpectedly, supported by a large body of the clergy, and very generally by the laity, especially the legal members, and after some two or three hours of discussion, passed by a very large majority. What will be the ultimate operation of the Canon remains to be seen, but its influence was undoubtedly very happy at the time, as many of the Low Churchmen at once signified their intention to abandon a separate organization in which they had for several years been carrying on their missionary operations in independence of the Diocesan Board; and have shown their sincerity by entering immediately into the missionary convocations organized in this same session of the Convention. Thanking you for your kindness in sending the papers above referred to, I am very respectfully, yours,

"J. F. GARRISON."

At the Protestant Episcopal General Convention, which met in Baltimore Oct. 5, 1871, the propriety of extending the cumulative vote to all elections of delegates to the General Convention was considered, but on the 21st following, Rev. Dr. Haight, of New York, from the Committee on Canons, to which it was referred to inquire into the expediency of so altering the constitution and canons of the church as to provide for the representation of minorities, reported that no such action is expedient at this time.

June 24 and Dec. 12–14, 1870, the same subject was discussed in the United States House of Representatives, as see Chapter II.

May 9, 1871, there assembled at Columbia, the capital of South Carolina, a convention of the tax-payers of the State to take into consideration the financial condition of the commonwealth. Speaking in round numbers, the division of parties in the State is about 90,000 Republicans, almost all negroes not owning property, and 60,000 Democrats, chiefly whites and property-holders and tax-payers. By the present system of majority representation only the 90,000 colored voters are in possession of the State government, and as being without the restraining influences of property impose grievous taxes and contract heavy debt. In this way the subject of Minority Representation was pressed upon the attention of the convention. On the 9th, Gen. M. W. GARY offered the following, which was agreed to:

"*Resolved*, That a committee of seven be appointed to memorialize the Governor and the Legislature of this State as to the expediency of repealing or modifying the election laws of this State, and that said committee do report upon the expediency of adopting the cumulative system of voting, or such system as will protect the rights of minorities."

M. W. Gary, C. W. Dudley, Wm. Wallace, B. H. Wilson, J. P. Thomas, E. S. Keith, and J. H. Screven were appointed such committee, and on the 10th presented their report, the essential portions of which are as follows:

"The means of protecting the rights of minorities, in representative forms of Government, has for a long period engaged the attention of thoughtful minds. In Europe, as well as in this country, this question has been fully discussed, and a satisfactory solution anxiously sought. So defective is the system of mere majority rule—so flagrant are the abuses to which it is liable, that the necessity for its modification strikes with force every impartial observer. It is obvious that the needs of good government require that some effective organism be devised for the protection of minorities. Your committee deem it unnecessary to enter upon an analysis of the several schemes of proportional representation that have been suggested. Enough to say that, in our judgment, the plan of cumulative voting best accomplishes the end in view—best makes representation co-extensive with the whole body of electors. This plan obtains wherever there is more than one officer to be elected. It gives the elector as many votes as there are persons to be chosen, and allows him to bestow his votes upon the whole number, or to cumulate them upon any number less than the whole. The effect of this system is to give to each political interest in a community a representation proportionate to its numerical strength. Under its operation the true office of suffrage, which is to collect the sense of the whole community, will be subserved. There is effected neither exclusive representation of the majority, nor exclusive representation of the minority; but proportional representation. The proposition is that the cumulative system secures thorough and general representation of all the interests in the political body. * * * Recently the subject has attracted unusual interest in the South. In our own

State it has been received with great favor, and lifted above the plane of political partyism. Your committee are of the opinion that, abstractly considered, proportional representation is a great governmental principle—a wise, just measure of reform, and one absolutely necessary to make unlimited suffrage consistent with peace, order, and security. It enters the political body as a saving, a conserving, element. It comes to leaven the lump of Democracy, and to give the essence of genuine Republicanism, which is, briefly stated, thorough and general representation. But if proportional representation be an admirable system in any government founded upon the popular will, your committee hold that the plan is peculiarly applicable to such a condition of society as this State now presents. * * * Your committee are aware of the fact that this measure of electoral reform, if it shall be promptly realized by us, must come from the dominant party of the State. Whether it will come or not, we cannot decide. In either event, the minority in South Carolina put forth their claims in this behalf. It is their right. Should it be denied, the responsibility must rest upon those who use thus the power that the present gives. Should it be tendered, it will doubtless produce the fruits of justice and widen the circle of peace.—This much we may add: Since it is the nature of majorities to change, it may be well for the dominant party to consider whether the adoption of proportional representation may not for them be the best policy for the future, as well as the highest wisdom for the present."

From the proceedings further of the Convention it appears that on the 11th the following was adopted:

"*Resolved*, That we recommend to the Legislature the passage of an election law, by which the 60,000 tax-paying voters will have a proportionate representation in the Legislature of the State, with the 90,000 voters who pay no taxes; a proposition so just, reasonable, and conscientious, cannot fail to recommend itself favorably to every right-minded citizen."

And on the 12th the Convention received from the Governor, through a committee sent to confer with him, the assurance that he was "in favor of the cumulative system of voting and minority representation, and would be glad to see it made a part of the law of the State." Nov. 28, 1871, the Governor recurred to the matter in his message, saying:

"The subject of minority representation engaged the earnest attention of the 'Tax Payers' Convention,' and they presented many cogent reasons for its immediate adoption into the elective system of this State. In accordance with my promise to them, I present this important matter for your gravest consideration. I recognize the *principle* of minority representation as both wise and just. It secures to the several party divisions in the State a direct and proportional representation in its administration. It thus institutes a check and balance against that injudicious or oppressive exercise of power that is too apt to ensue where its undivided possession is held by a large party majority. The advantages of the system have been recently exemplified in practice at elections in England and in the States of Pennsylvania and Illinois."

At the ensuing session the following proposition to amend

the constitution of South Carolina was offered in the State senate by a negro member, but in February, 1872, voted down:

"ARTICLE XVI.—To the end that the electors of South Carolina may exercise their right of suffrage freely and without undue constraint, and may obtain for themselves complete representation in the government of their affairs, the plan of free or cumulative voting shall be lawful, and is hereby authorized, in all cases where more persons than one are to be chosen or elected to the same office for the same time or term of service; each voter duly qualified shall be entitled to as many votes as the number of persons to be chosen, and may poll them for one or more of said persons in such ratio as he may deem proper."

June 13, 1871, a State convention assembled at Lincoln to frame a new constitution for Nebraska, and in the instrument submitted to the popular vote, Sept. 19, 1871, but then rejected by a majority of 641, inserted the subjoined provision:

"The Legislature shall provide by law that in all elections for directors or managers of incorporated companies, every stockholder shall have the right to vote in person or by proxy for the number of shares of stock owned by him for as many persons as there are directors or managers to be elected, or to cumulate said shares and give one candidate as many votes as the number of directors multiplied by the number of his shares of stock shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner."

At one time during its session the Convention voted to extend the same principle to all elections, Legislative and other, where three or more persons were to be voted for, but on the final revision of the first draught of the constitution that clause was stricken out. The report made to the convention by the Committee on Minority Representation July 21, 1871, is in its essential parts as follows:

"Such a system should be adopted for selecting the representatives and agents of the people as will come nearest to giving both the majority and minority their respective rights. It may be conceded that a precisely proportionate representation cannot be secured by any method yet devised. But it is equally true, that under the system of elections hitherto prevailing in the several States, and in the United States, not only has there been no just and fair representation of minorities, but these have been, to a great extent, and often, wholly excluded from legislative bodies and public positions. The subject has engaged the attention of thoughtful men, especially within the last few years, and expedients have been suggested, and to some extent tried, for correcting the evil. Without alluding to all of them, or to any which do not seem to be applicable to our condition, we mention only two. One expedient is to permit no elector to vote for more than a prescribed number of candidates. For instance, if three representatives are to be elected from the same district, no person could vote for more than two.

Therefore a minority of more than one-third of the voters could elect one of the three representatives. The other method, and that which seems to the committee preferable, is what is termed cumulative voting. It permits each elector to give to any one or more candidates the whole number of votes which, under the existing system, he is compelled to distribute equally among all for whom he votes. * * * * If applied in the election of two officers a minority exceeding one-third could always elect one. This would of course exceed its due proportion, and the case would present the simple question, which comes nearer to the right, that such a minority should be able to secure one-half the officers, or to secure none. The committee are not prepared to recommend the extension of cumulative voting at present to the case of two officers. * * * * We believe the system to be demanded by the principles and theory of our representative government. * * * * It is not a wholly new or unheard-of suggestion. For many years leading and able men in other nations and in this country—so fertile in governmental reform—have defended and urged the principle. In our sister State of Illinois it was adopted, not by theorists or by politicians, but by the people. It is no political device or partisan scheme. The principle is general and permanent in its operation. The majority of this day may be the minority of the next, and need the protection of this just and equal rule. We are laying the foundation of a government not for ourselves only, but for coming times and for the whole people of the present and the future."

The principal action taken upon the cumulative vote in the United States in 1872, has been in the States of New York and West Virginia and in the Territory of Utah, though elsewhere, as see Chapter II., it has been proposed and discussed. February 19, a convention met in Salt Lake City to frame a constitution for the admission of Utah into the Union, as the State of Deseret, and in the instrument adopted in the convention March 2, and ratified March 18, by a vote of 25,160 for to 365 against, occurs the following provision, Art. IV., sec. 25:

"At all elections for representatives each qualified elector may cast as many votes for one candidate as there are representatives to be elected in the county or district, or may distribute the same among any or all the candidates, and the candidates receiving the highest number of votes shall be declared elected."

In the new constitution of West Virginia adopted by the convention which met at Charleston, the capital of that State, January 16, 1872, occur the following provisions:

"The Legislature may provide for submitting to a vote of the people at the general election to be held in 1876, or at any general election thereafter, a plan or scheme of proportional representation in the Senate of this State; and if a majority of the votes cast at such election be in favor of the plan submitted to them, the Legislature shall at its session succeeding such election, re-arrange the senatorial districts in accordance with the plan so approved by the people."—ART. VI., sec. 50.

"The Legislature shall provide by law, that in all elections for directors

or managers of incorporated companies every stockholder shall have the right to vote, in person or by proxy, for the number of shares of stock owned by him, for as many persons as there are directors or managers to be elected, or to cumulate said shares, and give one candidate as many votes as the number of directors, multiplied by the number of his shares of stock, shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and such directors or managers shall not be elected in any other manner."—ART. XI., sec. 4.

April 18, 1872, the Legislature of New York provided in an act creating a new charter for the City of New York that the board of aldermen should be elected by the cumulative vote, the city being for this purpose to be divided into five districts, in each of which nine aldermen were to be chosen. On the 30th, Governor Hoffman vetoed the measure in a message which will be found in its essential parts in the Appendix. The action of the Legislature evoked the most exhaustive discussion the cumulative vote has, perhaps, ever received. The constitutionality, practicability, and even the justice of the scheme were debated in the Legislature and in the New York press, with the weight of the argument resting, upon the whole, in favor of the system. The practicability of the scheme was attacked on the ground that in all large cities there were considerable numbers of venal voters whose suffrages could be bought, and gangs of ruffians who could be hired to "repeat," or vote more than once at the same election, and that to give these classes nine votes instead of one would be to greatly increase fraud and corruption at elections. As one writer puts this objection:

"An elector who can give to any candidate that chooses to buy him nine votes instead of one, will be able to command a proportional price. A repeater who can give nine votes every time, instead of one vote every time, will regard election day as a great harvest. Under the system of single voting, a repeater who gets his ballot in five times would make $25 on election day, supposing each vote to be valued at $5. But under the cumulative system, a repeater who got his ballot in five times would give the candidate who bought him forty-five votes, which, reckoned at $5 each, would bring him for his day's work the snug sum of $225."

This is plausible, but the writer argues against the cumulative vote on grounds peculiar to the present method of voting. Nine votes may give a candidate a majority now, and would be cheap at $25, but under the cumulative vote the nine votes would count only as nine votes toward the attainment of a *quota*, and if a

candidate in endeavoring to bribe his way in were to pay $25 for every nine votes, or $225 for every 45 votes, the process would require the purse of a Crœsus to sustain it. Thus the voters of New York city are about 150,000. Dividing the city into 5 districts, each district has 30,000; and supposing the present method of voting to prevail, the nine aldermen allotted to each district would be elected on general ticket, and the 9 who could obtain a majority of the votes would be elected. For the Democratic 9 we will suppose there are 14,900 honest votes, and for the Republican 9 the same number, or 29,800 honest votes in all. Whichever side secures the 200 voters who remain, carries the election and secures all 9 aldermen. The Democratic candidates, let us say, bid the higher. The market price of votes being as above indicated, $5 per vote, the nine raise $1,000 among them, purchase the 200 votes needed, and are, of course, elected. Now let us suppose the cumulative vote applied. The district has 30,000 voters, and as there are 9 aldermen to be elected, every elector has 9 votes, or there are 270,000 votes in all. To be elected beyond a peradventure a candidate must secure 30,000 votes, or 3,334 voters. It is no longer now a question of the balance of power, where there are thousands of votes on either side and a few venal votes ready to turn the scale. No 200 voters, to be bought at $1,000, of which each candidate pays but a ninth part, can secure the election of any one of the aldermen, much less all nine. To be absolutely certain of his election a candidate must secure 3,334 voters, or 30,000 votes. Let us suppose he has 2,000 personal or party friends, who give him 18,000 votes; 12,000 are still lacking, and if he seeks to buy these at the figure above indicated, his election will cost him $60,000, which must be met out of his own pocket, since even the votes secured at such a cost can profit no one but himself. The same votes cannot inure to elect him, and the other 8 candidates of his party in addition. The very immensity, therefore, of the corruption which would have to be resorted to, to secure an election by purchase under the cumulative vote, is an argument in favor of that vote. The individual voter has, of course, more to sell, but his wares are infinitely less valuable. One vote may turn an election now, but one hundred or one thousand votes might be bought under the cumulative system

without thereby insuring the purchaser a seat. Another ground on which the cumulative vote has been assailed is, that it is unjust; that in a constituency of 30,000 voters entitled to elect 9 aldermen, 26,666 of those voters might be unanimously and desperately opposed to any given candidate, and yet despite this clear reprobation of such an overwhelming majority the remaining 3,334 voters could elect that candidate and put him in a position to make laws for the 26,666 who cannot abide him. In an opinion given February 24, 1872, on the New York charter, ex-Judge J. W. EDMONDS said on the point:

"As to 'cumulative voting' whereby a minority is insured a representation in the exercise of power without any possibility of a majority preventing it. The proposition is, in effect, this: that in a district which is to elect nine members of the city Legislature, and which may have (say) 1,900 voters, it is in the power of 200 of those voters to elect a member, and the other 1,700 have no power to prevent it. The general principle on which our republican institutions are founded is, that the people shall govern and a majority of them express their will."

This proves too much. If no person unacceptable to the majority of the people is entitled to hold office, then the minorities which have been almost always found in legislative bodies have been there contrary to the theory of republican government. The Legislature in a Democratic State should be unanimously Democratic; and Republican in a Republican. Congress should consist only of Republican members after an election in which the Republican party had polled the most votes throughout the United States: and should be Democratic without exception when the popular majority was Democratic. The right of the greater part of the people to rule, and the right of every part of the people to be represented, are confounded in any such argument. As M. Ernest Naville says in his "La Patrie et Les Partis:"

"In a democratic government, the right of decision appertains to the majority, but the right of representation belongs to all. Men often confound these ideas, and attribute the right of representation to the majority because it has the right of decision. Thus if 3,000 voters cast their suffrages on a matter which admits of but one decision, and 1,499 favor this determination and 1,501 that, the opinion of the latter body must rule. But suppose that these same 3,000 voters are divided into two parties, one of 1,000 and the other of 2,000, and are to elect 30 representatives. The 2,000 are entitled to 20 deputies and the 1,000 to 10; but if the 2,000 elect all 30, and the 1,000 none, where then is equality, where justice?"

Another point against the cumulative vote was thus put by the Chicago *Tribune:*

"The system would break up existing party ties in city elections, and instead of Democratic and Republican candidates they would have Catholic and Protestant, free-school and eight-hour, trades-unions and independent, temperance and free-liquor, jobbery and anti-jobbery, gambling and anti-gambling, woman's rights, negro, dead-rabbit, and gutter-snipe candidates."

It answers this to say that if there are 45 representatives to be elected, each one-forty-fifth part of the voters have clearly a right to a member who shall reflect their sentiments. The principle of the equality of all men has been put into the form of law, and upon that principle each one-forty-fifth part of the voters of New York have as many rights as any other such part. If by exercising their right to elect such a representative as may embody their opinions, they "break up existing party ties," where is the wrong? Are they to be held to maintain such ties contrary to their will and wish?

The great argument, however, against the cumulative vote in these discussions was that it was unconstitutional. In an opinion given in April, 1872, Messrs. Henry L. Clinton and A. R. Lawrence, Jr., members of the New York Bar, and ex-Judges T. W. Clerke, Jas. C. Spencer, and S. Jones took this ground:

"It is in conflict with section 1, article 2 of the constitution, which provides as follows: 'Every male citizen, etc., shall be entitled to vote, etc., for all officers that now are or hereafter may be elected by the people.' At the time of the incorporation in our State constitution of the language in this section, it had a fixed and definite meaning, namely, that every elector 'should be entitled to vote' once, and only once, for a single candidate."

It does not appear to have struck the learned gentlemen that under the act of March 29, 1867, an election for 160 delegates to a convention to revise the constitution of the State of New York was held April 23, 1867, and that in the election of the 32 delegates at large to said convention it was provided that "no elector shall vote for more than sixteen of said delegates at large." So far from every elector voting "for all," no elector voted "for more than sixteen." Further, it seems to have escaped attention that the convention thus in part elected proposed, among other amendments to the constitution, one respecting the judiciary, which provided that a chief judge and six associate judges of a Court of appeals, or Supreme judicial tribunal, of the State should

be elected, every elector at the first election of said judges to vote "for the chief and only four of the associate judges," and that the people who voted down every other amendment proposed to them accepted this. The present Court of Appeals of the State of New York was therefore elected by another method than that of every voter voting once for each officer to be elected, and a tribunal thus elected would present a somewhat laughable spectacle in deciding that, except in its own case, it was unconstitutional to vote otherwise than in the old way. This position it might seek to justify by saying that it took an amendment of the constitution to authorize the method of voting by which it was elected; but what amendment of the constitution, it may be well asked, authorized that same method of voting in the election in part of the convention which proposed that amendment? Any other method of voting than that of once for each of all the officers to be chosen being unconstitutional, the New York Constitutional Convention of 1867 was unconstitutional, and the amendments proposed by it mere purported amendments, waste paper and verbiage, which neither received, nor could receive validity from any supposed popular vote. The people can, of course, ratify any amendment submitted to them, but the proposition of an illegally constituted body is not an amendment.

Feb. 10, 1872, Prof. Theodore W. Dwight gave an opinion in favor of the constitutionality of the cumulative vote, the main points whereof he recapitulates thus:

"The essence of a representative system, as understood in this State, is that the electors should inhabit a defined territory; should be placed on a perfect equality as to their vote; that they should be able to group themselves together so as to elect a representative; that there should be definite rules concerning the qualifications of the voters and the canvassing of the votes, and that within such territorial district greater weight should be given to the majority than the minority. Within these general limits, the legislative vote may provide from time to time different modes of ascertaining the electoral will."

This controversy has been noticed somewhat at length from the fact that it hinges on a point of general interest. It is provided in almost every State constitution, if not indeed in all, that each voter shall be allowed to vote for all the officers to be chosen in his district, and the question may arise elsewhere than in New York whether the cumulative vote accords with this provision

sufficiently to permit of its adoption without the process of an amendment of the constitution. It seems plain that there is such a conformity. If there are five officers to be elected the present system gives each elector 5 votes, but requires him to give but one vote to one candidate; the cumulative method also gives him 5 votes, but allows him to dispose of them as he will. He *may* vote for all, just as he does now, but if he does not, he is not mulcted of his vote to the extent of his failure. The cumulative vote, in other words, gives the elector no more power than he has now, but simply makes that power movable.

By reference to the Bloomsburg act and the acts supplementary to it, it will be seen that in Pennsylvania the use of fractional votes is allowed under the cumulative system, the elector being authorized according to the number of persons to be elected to give two or four candidates one and a half votes each, or one and one-third votes to each of three; something which seems a novelty, but has this precedent, that in national nominating conventions half votes have long been in vogue. On the subject of these fractional votes Mr. BUCKALEW says:

"In the Bloomsburg act fractional votes are allowed when three, four, or six persons are to be chosen, and they may be allowed with advantage in other cases. Most commonly they will be convenient and desirable to majorities rather than minorities, and there can be no question that their allowance will popularize the free vote, render its reformatory action more effectual, and facilitate its extension generally to popular and corporate elections. Fractional votes have been used with approval many times in recent local elections in Pennsylvania, they have also been used in national political conventions for the nomination of candidates for President and Vice-President of the United States, and their use will be found essential to the smooth working of representative elections under the amended constitution of Illinois. It is evident that when a voter has three votes and shall desire to bestow them equally upon two candidates, he must divide one of his votes; in other words, in order to give one vote and a half to each of two candidates he must break one of his votes into two equal fractions. When four persons are to be chosen, and the majority of the voters shall desire to vote for three candidates (giving an equal support to each), fractions of one-third should be created; that is, each majority voter should divide one of his votes into three equal parts, so that he can give one vote and one-third to each of three candidates. And when six persons are to be chosen and the voter shall desire to vote for four, he must (in order to render them an equal support) divide two of his votes into four halves and give one vote and a half to each of the four candidates he votes for.

"Some other numbers involved in elections are less adapted than the numbers three, four and six for the application of fractional voting; but many others are as much so, and nearly all admit of such application to a useful extent. For instance, the number five admits of the giving of two

and a half votes to each of two candidates, or one and one-fourth to each of four; and the number nine admits of one and a half votes to each of six candidates, or two and one-fourth to each of four. But as it seems necessary or highly desirable on grounds of convenience to avoid fractions of which the numerator exceeds unity or one, we cannot very well divide five votes equally among three candidates, nor seven among five, etc. There is, however, more than one resource in such cases of difficulty. Terms of official service may be arranged with reference to the new plan of voting, or the body of electors in a State or district, united by party association, may divide themselves for the purpose of casting votes. Take the case of a court of five judges, chosen for ten-year terms: Instead of electing them all together it would be well to elect a part of them every fifth year, say two at one time and three at another, and so on at successive quinquennial elections. And so to a court of seven judges, four might be chosen at one time and three at another. * * * At present I am prepared to say that I would allow fractional votes of one-half, one-third, or one-fourth, whenever their use shall be necessary to enable voters to give an equal support to the candidates they vote for under the new plan.

"The counting of fractions in making up election returns is a very simple performance, as shown at recent elections in this State. Fractions being always attached to whole votes on the tickets, may even be disregarded in scoring down votes upon the tally-paper and be added at the end of the score. For instance, when two candidates have been voted for as follows:

"John Jones, 1½ votes,
"William Brown, 1½ votes,

the first ticket drawn from the box may be copied upon the tally-paper (omitting the word 'votes'), and then that and succeeding tickets marked down in scores of five toward the right according to the common practice. To the sum of the scores for a candidate fifty per centum will be added at the end of the line. Thus if 80 such tickets have been voted, the count for each candidate will be carried out—80 plus 40 equals 120 votes. In this case the figures '1½' attached to a candidate's name become a sign of value for the strokes which follow, and may be conveniently enclosed in a circle with a pen. If whole votes alone shall be voted on other tickets for the same candidate, they should be scored on a separate line above or below the other, and be carried out and added at the proper place on the right."

The great disadvantages of the cumulative vote are two in number, both apparently irremediable. If we represent the number of persons to be chosen by n, and the total vote cast by m, no minority which does not exceed $\frac{m}{n}+1$ can hope to secure representation in any ordinary party contest. At the Congressional election of 1870 in Vermont the Republicans secured all three Representatives, the vote standing 31,621 Republicans to 9,916 Democrats. Had the cumulative vote obtained, there would have been 94,863 Republican and 29,948 Democratic votes, and had the Democrats concentrated their entire vote of 29,948 on one candidate, the Republicans, by being able to give each of three candidates 31,621 votes, would still have elected all three

of the Representatives, as fully as under the existing system. Cases like the Vermont election contain this injustice, that the majority obtain the odd member by a vote less than that cast by the minority. Thus the total vote cast in Vermont was 41,537, and as 3 members were chosen, the *quota* or number of votes entitled to a member was 13,845. The Republicans cast twice this, thus entitling them to two members, and 3,931 over; the Democrats cast 9,916, and yet the third member went to the former instead of to the latter vote. An injustice like this the cumulative vote seems impotent to reach.

Another defect of the cumulative vote is that, in its present form at least, it cannot be relied on to work out a proportional representation unless some approximate idea of how parties stand can be obtained prior to the election. Where there are fusion tickets, or any other breaking up of old party lines, the result must necessarily be in doubt, and by not knowing for how many candidates to vote, a party may vote for too many, and thus, as in the case of the English School Board elections, so scatter its strength as to obtain less representation than its due, or on the other hand may underestimate its strength, and by piling up its votes on a few candidates, lose representation in that way. This would have been singularly manifest had the cumulative vote been in use in the municipal election of 1871 in the city of New York. Up to that time the city vote had generally been 110,000 Democratic to 40,000 Republican, but just prior to the election party lines were broken up to a great extent, and instead of the two old factions, two new ones, the Tammany and Reform parties, took the field. Politicians were at a loss to know how the vote would go, and had the cumulative vote been in use both parties must have made up their tickets in the dark. As having for years had an overwhelming majority, the Tammany men would doubtless have struck out for 10 of the 15 Aldermen, and the Reformers, as less confident of victory, would probably have thought best to cumulate their votes on, say, 6 candidates. Had this been done the Reformers would have piled up the great majority they really obtained on their 6 candidates and would have elected them all; but then there being no other Reform candidates, the Tammany men would have elected the other 9 alder-

men and held three-fifths of the board with but two-fifths of the vote. Except where the relative strength of parties can be approximated, the cumulative vote cannot, therefore, be relied on in its present shape for a fairly proportionate representation. Where some such general idea is possible, and it is not often the case that the field is absolutely dark, the method can be made to work well. Even in its worst estate it has been found to give minorities some representation, and with time and practice remedies may be found such as will give it a uniformly smooth and just operation. Certainly it has been received with great favor in those two countries, England and the United States, where the needs and nature of representative government are supposed to be best understood. What is thought of it in this country the matter of this chapter will show, and in England it has received two strong indorsements from eminent writers on constitutional law. In his work on "Parliamentary Government considered with reference to Reform," Earl Grey says:

"The first of the reforms of a conservative tendency which I should suggest, and one which I should consider a great improvement under any circumstances, but quite indispensable if any changes favorable to democratic power are to be admitted, would be the adoption of what Mr. James Marshall has called the 'cumulative vote'—that is to say, the principle of giving to every elector as many votes as there are members to be elected by the constituency to which he belongs, with the right of either giving all these votes to a single candidate, or of dividing them, as he may prefer. * * * The tendency of the alteration would be conservative in the best sense of the word."

And in his "Thoughts on Parliamentary Reform," John Stuart Mill says:

"I am prepared to maintain that the permission of cumulative votes, that is, of giving either one, two, or three votes to a single candidate, is in itself, even independently of its effect in giving a representation to minorities, the mode of voting which gives the most faithful expression of the wishes of the elector. On the existing plan, an elector who votes for three can give his vote for the three candidates whom he prefers to their competitors; but among those three he may desire the success of one immeasurably more than that of the other two, and may be willing to relinquish them entirely for an increased chance of attaining the greater object. This portion of his wishes he has now no means of expressing by his vote. He may sacrifice two of his votes altogether, but in no case can he give more than a single vote to the object of his preference. Why should the mere fact of preference be alone considered, and no account whatever be taken of the degree of it?"

CHAPTER IV.

THE LIMITED VOTE—ORIGIN—ADOPTION IN ENGLAND, NEW YORK, AND PENNSYLVANIA—PRACTICAL OPERATION—DEFECTS—THE PREFERENTIAL VOTE—M. ANDRÆ'S SCHEME—OPERATION IN DENMARK—MR. HARE'S SCHEME—THE PROPORTIONAL REPRESENTATION BILL OF 1872.

THE Limited, or as it is sometimes called the Restricted, Vote is a method of voting by which each elector has a less number of votes than there are persons to be elected, and must dispose of his votes as at present. If there are 3 representatives to be chosen, each elector has 2 votes, and can vote only for 2 candidates, one vote to each; if there are 5 Representatives, he has 3 votes, and can vote for but that number of candidates, and so on. One form of the Limited Vote gives each elector but one vote, which he casts for but one candidate, irrespective of the number of persons to be chosen, and is hence called the Single Vote.

The credit of first suggesting the Limited Vote is claimed for Lord John Russell, for Professor Fawcett, and for Professor Craik, of Belfast, Ireland; but the true original must be sought in the Norwegian constitution adopted October 7, 1814, which reads (cap. C., § 57) thus:

"In the cities one elector shall be chosen for each fifty inhabitants entitled to vote. These electors shall assemble within eight days after, at a place prescribed by the authorities, and elect either from among themselves, or from the other voters in their election district, thirty-seven representatives to meet and take their seats at the Storthing. * * * *A city which constitutes an election district by itself shall in no case appoint less than three electors.*"

This is the exact idea of the three-cornered constituency proposition brought forward by Lord John Russell in the Reform Bill of 1854, and afterward embodied in the Reform Bill of 1867–8. It may be here added, that the general idea of Minority, or Proportional, Representation is further to be found in the Constitution of Norway, the same caption C., thus:

"SECTION 58.—In every parish in the country the inhabitants entitled to vote shall choose electors in proportion to their numbers. Thus, 100 shall

choose one: 100 to 200, two; 200 to 300, three; and so forth, in the same proportion."

At the session of 1867–8, the House of Commons passed a Reform Bill to extend the suffrage, and as amended (after a debate synopsized in Chap. II.) on motion of Lord Cairns in the Lords, became law. Lord Cairns' amendments were as follows: "At a contested election for any county or borough represented by three members, no person shall vote for more than two candidates," and "At a contested election for the city of London, no person shall vote for more than three candidates," there being nine constituencies entitled to three members, and one, London, to four. By "contested election" is to be understood not, as with us, an effort to invalidate an election before the representative body, so as to invoke the decision of that body as to which candidate has been legally elected, or an attempt to oust the sitting member in favor of a contestant, but merely an election where a formal poll is demanded. The election in Edinburgh, in 1868, for instance, was uncontested. There were two Representatives to be chosen, and but two candidates. The sheriff said, "Mr. McLaren and Mr. Miller have been proposed as candidates for the representation of the city. Has any elector any other candidate to propose? If not, I have to request, in the first place, a show of hands in favor of Mr. McLaren, and then for Mr. Miller." Five or six hundred hands were raised, and the sheriff then announced that "Mr. Duncan McLaren and Mr. John Miller have been duly elected Members of Parliament for the City of Edinburgh." And this was the whole of the election.

An "uncontested election" is, therefore, in British parlance what we term a "walk over." Where there are opposing candidates, the show of hands is appealed from, and the election then becomes contested and is decided by voting.

Referring to this adoption of the limited vote, the report made the United States Senate March 2, 1869, says:

> On the 30th July, 1867, the reform bill being under consideration in the House of Lords, Lord Cairns moved to insert the following new clause, to come in after clause 8 of the bill:
>
> At a contested election for any county or borough represented by three members no person shall vote for more than two candidates.
>
> This amendment, after an elaborate debate, was adopted by a strong

vote: contents, 142; not contents, 51; and an additional amendment was then also adopted without a division, that "at a contested election for the city of London" (which is entitled to four members) "no person shall vote for more than three candidates." The success of those amendments (which were concurred in by the House of Commons on the 8th of August) constitute an important event in the history of representative institutions, for they recognized and gave application to a principle of justice which will endure the test of trial and of time, a principle which will hereafter receive indefinite extension, and wherever extended will purify elections, insure contentment to constituencies, and elevate the character and improve the action of free government. Mr. Gladstone, speaking in the House of Commons, and confining his attention to his own country, declared that the proposition or principle contained in those amendments, if adopted at all, must be adopted with the certainty that "it must unfold and expand itself over the whole country and completely reconstruct the system of distribution of seats." And generally those who supported it in both houses of Parliament foretold and rejoiced in the prospect of its future expansion. Those amendments constitute the ninth and tenth clauses of the reform act of 15th of August, 1867, and their effect is illustrated by the parliamentary elections of 1868. We give the returns for certain districts:

Herefordshire, three members. Average Tory vote, 3,360; average Liberal vote, 2,074. Two Tories and one Liberal elected.

Cambridgeshire, three members. Average Tory vote, 3,924; average Liberal vote, 3,310. Two Tories and one Liberal elected.

The Liberals also obtained the third member in each of the Tory counties of Oxford, Bucks, and Dorset.

Liverpool borough, three members. Average Tory vote, 16,404; average Liberal vote, 15,198. Tory majority, 1,206.

In Liverpool the second seat, previously held by the Tories, was attacked by the Liberals; the result was a failure, as shown by the above vote. But the third member was most justly secured to the Liberals under the certain operation of the limited vote, provided by clause 9 of the reform act. Under the operation of the same clause the Tories obtained the third member for Leeds, and they carried members also in Manchester and London. Blackwood's Magazine, a Tory organ (it has called itself "the oldest of the Tories"), although it admits that its party has suffered loss to the extent of at least four seats by the minority clause, says:

> That to the principle of that clause, fairly and consistently worked out, it has no objection whatever.—*Blackwood's Magazine, January*, 1869.

This expression of opinion by a leading organ of the party which suffered somewhat under the minority clause, is a valuable testimony in favor of the principle of electoral reform which that clause was intended to promote.

Another account of the operation of the Limited Vote is furnished by the London correspondent of the New York *World*:

The contest in London was very exciting, and by the operations of the law for the representation of minorities, the Tory minority not only succeeded in electing their one member, but came very near electing three out of the four candidates. There has not been a Tory elected here for very many years. There were four candidates to be elected—the Liberals nominated four, the Tories only three. No voter, under the new law, could vote for more than three of the candidates. The Liberals brought 12,515 men to the polls, and, had these divided their votes in exactly the right proportion, they could have

succeeded in electing their four candidates, since the entire Tory strength was but 6,147. But the Liberals made the error of giving to one of their candidates, Mr. Goschen, 6,506 votes, 350 more than enough, and this caused the defeat of one of their men, Rothschild, and barely enabled them to save the other two. The figures are as follows: Lawrence, 6,196; Crawford, 6,326; Goschen, 6,506—all Liberals. Twells (Tory), 6,147. These are the four successful candidates. Rothschild received only 6,009 votes, and the other two Tory candidates received 6,121 and 5,933 votes. In Westminster the vote polled was very small—13,563 in all—and Mr. John Stuart Mill was laid out dead as a mackerel, the one Tory candidate, Mr. W. H. Smith, leading the poll with a vote of 7,311, and the other seat falling to the *quasi* Liberal, Captain Grosvenor, by a vote of 6,252, while poor Mill got only the voices of 6,111 citizens. It is said this morning that 8,000 men who had promised to vote for Mill never went to the poll at all. The Westminster district is a very large and populous one, comprising nine parishes and Clement's Inn, Lincoln's Inn, New Inn, the close of the collegiate Church of St. Peter, and the precinct of the Savoy. There should be at least 25,000 voters in the district; but not much more than one-half of that number polled. In Birmingham the three Liberal candidates were elected, but, curiously enough, John Bright "ran behind his ticket," as you say in America, receiving nearly 600 less votes than his two colleagues. In Manchester, where three seats were to be filled, the Tories elected one—the Liberals foolishly dividing their strength between four candidates.

The London *Spectator*, of December 5, 1868, has a more extended account thus:

In Hertfordshire the Liberals were to the Conservatives about in the relation of 37 to 34, and by the operation of the minority clause there were returned two Liberals to one Conservative, which of course exaggerates the real Liberal strength. Again, in Herefordshire the Liberals were to the Conservatives about in the relation of 22 to 33, and there, by the operation of the minority clause, there were returned one Liberal to two Conservatives—a result exaggerating the local Conservative strength, but not so much as the result in Hertfordshire exaggerated the Liberal strength. In Berkshire the Liberals were to the Conservatives in the ratio about of 25 to 31, and there, by the working of the minority clause, they returned one member and the Conservatives two. Again, in Cambridgeshire the Liberals were to the Conservatives in the relation of 33 to 39, and there, by the action of the minority clause, they returned one Liberal member to two Conservative members. These were, we believe, the only English counties subject to the minority clause in which there was any contest to test the actual strength of parties; and in these we see that, taking these four counties together, there were returned by the action of the minority clause, five Liberals to seven Conservatives by parties which may be said to be very nearly in that ratio,—say, on an average, in the ratio of 29 to 34, which shows a certain loss of strength, as compared with the ratio of their votes, to the weaker party, the Liberals. On the other hand, but for the minority clause they would have carried but one of these counties, Hertfordshire, and gained, had the number of seats been the same, the three seats there; while the minority seats in Cambridgeshire, Herefordshire, and Berkshire would have gone to the Conservatives, leaving the Liberals with three seats to the Conservative nine. *The majority clause, therefore, in these counties has not given the Liberals a representation up to their full party strength, but much beyond what the ordinary majority principle would have given.* Now to pass to the boroughs where the clause

has had any operation, *i.e.*, where there has been a party contest. We find that in Liverpool, the Liberals being to the Conservatives in about the ratio of 15 to 16, the Liberals returned one member and the Conservatives two; that in Manchester, the Liberals being to the Conservatives in the ratio of, say, 21 to 15, the Liberals returned two members and the Conservatives one; that in Leeds, the Liberals being to the Conservatives about 2 to 1, the Liberals returned two members and the Conservatives one; that in Birmingham, the Liberals being to the Conservatives in about the ratio of 22 to 8, the Liberals returned all the three members; and that in Glasgow, the Liberals being to the Conservatives in about the ratio of 27 to 11, the Liberals returned all the three members;—the result of which is that the minority clause gave the Liberals 14 to 5, or nearly 3 to 1, in constituencies where their strength, taken on the whole, was not quite 2 to 1. In other words, the minority representation, though it gave the Conservatives five borough members, where with the same number of seats to fight for they would only have had three without it—the three seats for Liverpool—and though it diminished the Liberal strength from 16 (if there had been as many seats to obtain) to 14, really gave the Conservatives considerably less than the strength due to their proportion of voters, just as in the counties we have named it gave the Liberals less than the strength due to their proportion of voters. The conclusion is, that while the minority principle in both cases gives a certain representation to the weaker party which it would not otherwise have, it gives a much less adequate one where the weaker party is very weak—as the Conservative party was in most of the great boroughs we have named—than where the weaker party is tolerably strong, as the Liberal party was in all the counties we have named. The minority principle has, in fact, given the Liberals in the three-cornered counties much more than it has given the Conservatives in the three-cornered boroughs, and for this reason—that in three out of the six three-cornered boroughs the Conservative party was practically insignificant, while in all the three-cornered counties the power of the Liberals was substantial, though often very inferior to that of their rivals.

In April, 1870, Mr. Hardcastle and Mr. Bayley Potter brought in a bill to repeal the minority representation clauses of the Representation of the People act of 1867, and the Supplementary act of 1868 applying the same principle to Scotland, but by a vote of 183 to 175 the House of Commons determined to retain the Limited Vote. Of this action the London *Times* of the next morning, June 16, 1870, said:

> The vote of yesterday confirmed the principle of representing minorities, and, as we believe, forever. The clauses in the Reform Act of 1867 were novelties which vehemently offended many democratic instincts, and great efforts were made at the general election to pledge Liberal candidates to vote for their repeal. The attempt has failed, and the passion which stimulated it has already lost much of its force and will continuously diminish until it disappears. Time will establish the true principle more and more firmly in the reason and judgment of the nation. * * * * Those who fight against it fight against light.

In the United States the Limited Vote has received less at-

tention and favor than the Cumulative, but has still been adopted in New York, Pennsylvania, and Ohio. In 1866 the people of New York voted in favor of a convention to revise the Constitution of the State by 352,854 for, to 256,364 against; and in the act of March 29, 1867, to provide for this body, it was declared that 32 of the 160 delegates to be elected:

"Shall be chosen for the State at large, and may be voted for by all the electors therein as such electors are hereinafter designated, except that no elector shall vote for more than sixteen of said delegates at large. And the thirty-two persons receiving the highest number of votes as delegates at large, shall be elected such delegates at large."

In 1869 there was submitted to the popular vote by order of the Convention an amendment to the State Constitution providing for a Court of Appeals to consist of a Chief Judge and six Associates, and reading that "At the first election under this Constitution, every elector may vote for the Chief and only four of the Associate Judges." By a vote of 247,240 in favor to 240,442 against, this amendment was adopted, and in 1870 came on an election to be conducted under it. At this election the vote stood—

CHIEF JUDGE.

Sanford E. Church, Democrat	239,890
Henry R. Selden, Republican	151,978
Democratic majority	87,912

ASSOCIATE JUDGES.

*William F. Allen, Democrat	239,173
*Martin Grover, Democrat	238,516
*Rufus W. Peckham, Democrat	236,685
*Charles A. Rapallo, Democrat	235,994
*Charles J. Folger, Republican	154,930
*Charles Andrews, Republican	154,094
Charles Mason, Republican	152,306
Robert S. Hale, Republican	150,862

By act of April 12, 1870, the Ohio Legislature applied the limited vote to the election of judges of election, so that the local majority secures two and the minority one. Like provisions exist in New York and in Pennsylvania; and in the latter State the Legislature extended the principle in 1866 to cover the election of jury commissioners, complaints having arisen throughout the State that juries were unfairly drawn. The people of Penn-

* Elected.

sylvania having voted in 1871 for a convention to revise the Constitution of that State, the Legislature in April, 1872, passed an act providing for the election of all the delegates thereto by the Limited Vote—the most important use made of that system in the United States. The essential sections read:

"SECTION 1.—Be it enacted, etc., That at the general election to be held on the second Tuesday in October next, there shall be elected by the qualified electors of this Commonwealth delegates to a convention to revise and amend the Constitution of this State. The said convention shall consist of one hundred and thirty-three members, to be elected in manner following: Twenty-eight members thereof shall be elected in the State at large as follows: Each voter of the State shall vote for not more than fourteen candidates, and the twenty-eight highest in vote shall be declared elected. Ninety-nine delegates shall be apportioned to and elected from the different Senatorial districts of the State; three delegates to be elected for each Senator therefrom; and in choosing all district delegates each voter shall be entitled to vote for not more than two of the members to be chosen from his district, and the three candidates highest in vote shall be declared elected, except in the county of Allegheny, forming the Twenty-third Senatorial district, where no voter shall vote for more than six candidates, and the nine highest in vote shall be elected; and in the counties of Luzerne, Monroe, and Pike, forming the Thirteenth Senatorial district, where no voter shall vote for more than four candidates, and the six highest in vote shall be elected; and six additional delegates shall be chosen from the city of Philadelphia, by a vote at large in said city, and in their election no voter shall vote for more than three candidates, and the six highest in vote shall be declared elected.

* * * * * * * * * *

"SECTION 8.—That in case of vacancies in the membership of said Convention, the same shall be filled as follows: If such vacancy shall be of a member at large of the Convention, those members at large who shall have been voted for by the same voters, or by a majority of the same voters, who shall have voted for and elected the member whose place is to be filled, shall fill such vacancy. If such vacancy shall be of a district or city member of the Convention, those members at large of the Convention who shall have been voted for by the same or by a majority of the same voters who shall have voted for such district or city member, shall fill such vacancy. In either case the appointment to fill a vacancy shall be made by the members at large aforesaid, or by a majority of them in writing, and all such written appointments shall be filed among the Convention records."

The Single, or Simple, or Plurality, Vote, as it is variously termed, is sometimes treated as a distinct method, but is really but one form of the Limited Vote, the limitation being to but one vote, no matter how many persons there may be to be chosen. This method was proposed in France, by M. Emile de Girardin, and has been lately advocated by the Baron de Layze in his work "Les Minorités et le Suffrage Universel." The difficulty is that a popular candidate is apt to engross so many votes that the

representation is far from proportional. There may be 100,000 voters, with 20 members to be chosen, and the poll stand 50,000 or 60,000 for some very eminent candidate with the 19 other members elected by but the remaining 50,000 or 40,000 votes.

In any of its forms the Limited Vote is crude, and while it may, and has, worked a more proportionate representation than the present electoral system, it has always this defect, that the number of votes the elector is to have, depends not on the proportion of parties, but the terms of the electoral law. If there are seven members to be elected, whether each voter shall be limited to 6, 5, 4, 3, or 2 votes, is a matter resting with the law-making body, and in the decision of which that body can gain little assistance from the relative strength of parties. Mr. Thos. Hare mentions another defect:

Thus, suppose 84 electors, *i.e.*,—51 Liberal, supporting candidates A, B, and C, 33 Conservative, supporting candidate D, the 51 Liberals might, by dividing themselves into three sections of 17, and adhering rigidly to a rule previously laid down for every voter as to distribution of his votes, exclude the 33 Conservatives, thus—

	A.	B.	C.	D.
17 Liberals vote for A and B . .	17	17	. .	. .
17 „ „ B and C . .	. .	17	17	. .
17 „ „ A and C . .	17	. .	17	. .
33 Conservatives for D . . .	. .	. .	. .	33
The result of the Poll would be .	34	34	34	33

If there were any defect in the organization or working, so that one or two electors of either of the three sections of 17 gave his vote otherwise than according to the rule previously laid down—for example, voted for A and B, instead of A and C, C might be left in the minority, and D would be returned.

This defect was discovered by the political managers in England before the Parliamentary elections of 1868 came on, as witness these curious calculations:

"It is evident, upon a little reflection, that whenever the majority is more than fifty per cent. greater than the minority in a three-cornered constituency, the former, by a judicious division of their votes, may secure the three seats in the face of the law, which forbids any voter from polling for more than two candidates. In a constituency of 7,502 electors, of whom 4,502 are Liberals, and 3,000 are Tories; for instance, there are three mem-

bers of Parliament to be chosen. The Liberals nominate A, B, and C, and propose to elect them all; the Tories nominate D, and upon him concentrate their vote. But if 1,500 of the Liberals split their votes between A and B, and the other 3,002 give one of their votes for C, and share their second votes equally between A and B, the result would be that A would have 3,001, B would have 3,001, and C, 3,002; while the Tory candidate, having only 3,000 votes, would not be elected, and the purpose of the law would have been evaded. In a constituency which returns four members, the minority are still more liable to be kept out of their member, unless they are in number equal to three-fourths of the majority, or three-sevenths of the whole constituency. Thus, in a constituency composed of 7,002 voters, of whom 3,000 are Tories, the 4,002 Liberals could elect the four members, leaving the minority of 3,000 out in the cold altogether, notwithstanding the law was expressly designed to prevent the possibility of such an occurrence. They could give their candidate but 3,000 votes, while of the 4,002 Liberals (each elector being at liberty to vote for three candidates), 3,001 could vote for A, and 1,000 of this 3,001 could also vote for B and C, another 1,000 for B and D, and the remaining 1,001 for C and D. There would remain 1,001 voters, each with three votes, which could be given to C, D, and B. So that the four Liberal candidates would receive respectively 3,001, 3,001, 3,002, and 3,002 votes, all having more than the Tories can give their single candidate."

Indubitable as this defect is, it is not one often likely to manifest itself, and in a general way the limited vote can give a fairly proportional representation, though neither as flexible nor likely to be as popular as the cumulative vote. That seems to give the elector more power by allowing him to use his votes as he will, while the limited vote appears to restrict his franchise to the extent of the limitation. Both Hare and Mill take this distinction:

The reason of the greater popularity of the cumulative vote than that either of the restricted vote or of the single vote, which has been elsewhere proposed, is that it seems to give more power to the elector than he has theretofore had, whereas the other methods appear nominally to diminish that power. The cumulative rule, expressing: "That every elector shall be entitled to a number of votes equal to the number of the members to be chosen, and may give all such votes to one or distribute them among the candidates as he thinks fit," is favorably contrasted with the law of 1867, which enacts that, at a contested election for a constituency represented by three members, no person shall vote for more than two candidates. The latter gave an opportunity for the somewhat grandiloquent preamble of the bill introduced to repeal that restriction, which begins, "Whereas it is expedient to restore to the electors those rights which by the ancient law and custom of the realm belonged to them, of voting for so many persons as there are members to be returned, etc."—HARE'S "*Memorandum.*"

"Assuming that each constituency elects three representatives, two modes have been proposed, in either of which a minority, amounting to a third of the constituency, may, by acting in concert, and determining to aim at no more, return one of the members. One plan is, that each elector should only be allowed to vote for two, or even for one, although three are

to be elected. The other leaves to the elector his three votes, but allows him to give all of them to one candidate. The first of these plans was adopted in the reform bill of Lord Aberdeen's government; but I do not hesitate most decidedly to prefer the second, which has been advocated in an able and conclusive pamphlet by Mr. James Garth Marshall. The former plan must be always and inevitably unpopular, because it cuts down the privileges of the voter, while the latter, on the contrary, extends them." MILL—*Representative Government.*

The Committee on Electoral Reform which reported to the United States Senate in 1869, have also a bad word for the limited vote, saying it "cannot have extensive application, and is but a rude contrivance." Against this volume of condemnation are to be put the facts that in the election of delegates at large to the New York Convention of 1867, it secured the choice of some of the ablest men of either party in the State; that at the succeeding election for a Court of Appeals it obtained a bench of undoubted excellence: that in England it was reiterated and kept in force by Parliament after a full discussion of its alleged shortcomings; and, finally, that in Pennsylvania, notwithstanding the fact that the cumulative vote had been five years in use in that State for other elections, the limited vote was chosen as the method of electing the constitutional convention of 1872. Such a bulk of practical approval may very well offset some theoretical condemnation.

THE PREFERENTIAL VOTE.

The idea of the Preferential Vote—also called the Hare scheme, the Danish plan, contingent voting, and personal representation—is that each elector may vote for as many candidates as there are persons to be chosen, indicating his preference by denoting in some manner that such and such a person on his ballot is his first choice, such another his second, so and so his third, and so on. The total number of votes cast at the election is divided by the number of persons to be chosen, and the quotient, rejecting fractions, is the *quota*, or number of votes necessary to elect a member. The ballots, which are taken up either in the order in which they are cast, or as they come after having been mixed promiscuously together, are then read so far as the first choice on each, and if the name of any candidate

appears as such choice on a *quota* number of ballots, that candidate is *ipso facto* elected. All first choice votes appearing on any other ballots after the *quota* is obtained are credited not to that candidate, but to the person mentioned as second choice. Then the second choice names, now really the first choice, are read under the same rules as before, and so on till the requisite number of *quotas* are obtained and the authorized number of persons elected. To explain, there are 10,000 ballots cast and 10 persons to be elected. The *quota* is 1,000, and by the time, say, 2,500 ballots have been read, A's name appears as first choice on 1,000: A has then received the *quota* and is elected, and all votes for him as first choice on the ballots yet to be read are passed over to the next preferred candidate on those ballots. A, for instance, may receive 500 more first choice votes on the 7,500 remaining ballots: on 400 of these B is second choice, and A's votes are counted as B's votes; and on 100 C is the next choice to A, and the 100 A votes go to him. B may be found to have 600 first choice votes of his own, and C 900 of his own; these added to the transferred votes make the *quota* in either case, and both B and C are then also elected. The reading of the second choice and all succeeding choices is conducted in the same way.

Whether the credit of originating the preferential vote is due M. Andræ, of Denmark, or Mr. Hare, of England, is an open question, M. Andræ being undoubtedly first in order of time, the Danish law bearing date in 1855, and Mr. Hare's work not appearing till 1859; but, as there is nothing to justify the supposition of plagiarism on the part of the latter, the coincidence of plan is doubtless, as Mr. Mill puts it, but another example "how the ideas which resolve difficulties arising out of a general situation of the human mind or of society, present themselves, without communication, to several superior minds at once."

The Danish Electoral Law for the election of Representatives to the Rigsraad, prepared by M. Andræ, Minister of Finance of Denmark, in 1855, may be thus synopsized:

"Prior to the election, the president of the electoral district shall forward to the officers of the several electoral colleges (precincts) therein a

number of blank voting-papers authenticated by the name of the officer sending, and arranged so as to admit of sealing. These papers the precinct officers are to distribute to the electors, who are to inscribe thereupon the candidate or candidates for whom they vote, indicating the order of their preference where more than one name is inscribed. The elector is then to authenticate his paper with his name and address, seal it, and transmit to the officers of the precinct in which he is registered. Six days after the election, the precinct officers are to compare the papers received with the registry list, and so far as they are conformable thereto transmit them to the president of the electoral district. Fifteen days' notice is to be given of the time at which that officer will proceed to the count, and said count shall be public. The manner of counting is this. The president is first to count the papers and divide that number by the number of members of the Rigsraad to which the district is entitled. The quotient, rejecting fractions, is the *quota*, or number of votes necessary to elect a member. This ascertained, the papers are to be replaced in the urn, or ballot-box, and thoroughly mixed together. The president is then to draw them out one by one, numbering as they appear, and in the order of these numbers the papers are to be read, the first choice on each ballot being alone called. If the name of any candidate appears a *quota* number of times at this reading, that candidate is declared elect. If, after this, the name of the same candidate still appear as first choice, it is stricken out, and the next succeeding name taken as first choice on that ballot. Should such transferred votes and his own proper first choice votes give any other candidate a *quota*, he, too, is declared elect, and so on till the delegation is complete. Should, however, there still be a vacancy and a *quota* be unattainable, the candidate having the number of votes nearest a *quota* is to be declared elect. The voting-papers are to be preserved for reference, and the president is to notify the members elect of their election."

The following is a synopsis of the Electoral Law proposed by Mr. Thomas Hare, of England:

"Any person desiring to become a candidate in any district or districts, must hand in to the Registrars-General his name, age, and address, and the name or names of the district or districts for which he desires to stand, and pay over £50, about $242, for election expenses. A list of all the candidates with their constituencies shall be published by the Registrars-General, the names to be arranged first as respects length of service in Parliament, or, where the candidates are new men, according to age. All expenses for the erection or hire of polling-booths, and wages of clerks and officers, are to be defrayed out of the town or county treasury. The polling-places are to be held in school-houses or other buildings erected at the public cost. The voting paper must contain the name and address of the elector, his number on the registry list, and the name or names of the candidate or candidates for whom he votes, indicating preference where more than one candidate is voted for. After the election, the local officers are to certify to the Registrar-General the number of votes cast, and, on receiving the declaration of the *quota*, are to certify to the election of any candidate or candidates who have received such number of votes, counting the voting papers first for the candidates first named thereon, then for the second choices, and so on. The papers are then to be transmitted to the Registrars-General. If there are vacancies in the delegation the Registrars are to fill them up by giving each candidate all first choice votes cast for him in each constituency, taking up the districts in alphabetical order; and finally, if there yet remain

vacancies and *quotas* to fill, and the same are unattainable by this process, the requisite number of candidates having the highest number of votes are declared elect."

The exact text of Mr. Hare's law is very minute, but as much of this particularity is due to peculiar provisions of English law, only the features of the scheme, as they may be applied anywhere, are here given. It will be seen that the Andræ and Hare schemes are so nearly alike as to be practically identical.

Of the Danish system, Mr. Goepp, of the New York bar, gives an interesting historical account:

"According to the census of 1860, the entire population of the then monarchy amounted to 2,604,024. It was composed of the Islands and of the Cimbric Peninsula, which latter is divided into Jutland, Schleswig, and Holstein. The Islands were inhabited by Danes, Jutland by Danes, with a considerable German mixture, Schleswig by Germans, somewhat infused with Danes, and Holstein by Germans. Holstein (including Lauenburg) numbered about 550,000 people; Schleswig 400,000. The Danes, once the ruling nation of the North, were left, by the peace of 1814, high and dry on the sands of bankruptcy and territorial insignificance. They had lost Norway, and the day was fast approaching when the duchies, recognizing the Salic law of succession, must be severed from the kingdom, in which the female line were capable of inheriting. As yet the Danes enjoyed the advantage of a court trained in ambitious traditions, of a fleet and an army in which they held the commissions, a diplomatic representation and a bureaucracy recruited from their ranks. After pronouncing, in 1844, for the consolidation of the *entire* monarchy, they substituted, in 1848, the project of annexing Schleswig alone, so that they might easily outvote it, leaving Holstein the privilege of being a self-governed dependency, all the more helpless from having a separate legislature in which the sympathies of the Schleswigers could not aid it. In the war which ensued, they succeeded beyond their hopes, achieving not only the incorporation of Schleswig, but the unity of the succession in the entire monarchy. In October, 1855, they proclaimed the new imperial constitution, and interdicted its discussion by the German provincial assemblies. On the protest of the Germanic Confederation against the act of usurpation, Holstein was again, in 1858, exempted from submission to the new constitution, and thereby severed from her natural ally, Schleswig. The powers of legislation of the 'empire' were vested in a 'rigsraad,' to be composed of 80 members. Of these, 20 were to be appointed by the crown—that is to say, by the Danes; 30 were to be elected by the provincial assemblies; and 30 by the people. Of those elected by assemblies, 18 were assigned to Jutland and the Isles, and 12 to the Duchies; those elected by the people were assigned to the two divisions of country in the proportion of 17 and 13. This scheme would have insured at all times 55 Danish to 25 German votes. But the plan went farther. For the purpose of electing the 30 members by direct popular vote, the entire monarchy was divided into nine districts, three of which, constituting the Danish region, elected respectively 7, 3, and 7 members, while Holstein, as a fourth district, was called upon to elect eight, and Schleswig was cut up into five districts, each only large enough for a single member. The non-application of the scheme to Holstein, foreseen from the first, resulted in leaving the German nationality represented solely by the delegates from the

five Schleswig districts; or rather from four of them, because even in one of them the majority was Danish. In these Schleswig districts the manner of voting was in effect the same as it is in this country. But a different mode was provided for the three districts constituting Denmark proper. Here each voter sent in a written paper, stating over his signature his first choice, and as many other preferences as he happened to have. The voting-papers of each district were counted, and the aggregate divided by the number of representatives assigned to the district, the quotient being the minimum number of voters necessary to elect a member. The candidate who was found to be the choice of the necessary number of papers first opened was declared elected. The canvass being further prosecuted whenever the candidate already proclaimed as selected reappeared as a first choice, his name was struck out, and the second choice upon the same paper recorded instead. If the first reading of the papers failed to produce a full delegation, each with the requisite minimum of votes, the papers already counted were again overhauled, the second choices being now recorded where the first had been taken before. The further details are not essential."

It is apparent that any such method of voting as this is open to the charge of complexity; but M. Andræ and Mr. Lytton, Secretary of the English legation, both aver that in practice the method works well. M. Andræ said, in 1868:

"It certainly is not in Denmark, where this system of representation has been seen to work with the greatest ease for the last fifteen years, that you will hear anything said of its complexity."

—and Mr. Lytton says in his report in 1861 to the English Government of the working of the preferential vote in Denmark:

"I have heard Mr. Andræ's law called ridiculous and absurd, but after repeated inquiry I have been unable to discover why; and I have heard it called unintelligible, but it was by persons who had not tried to understand it; I have also heard it described as an impracticable law—an opinion which seems to me to be confuted by the fact that it has been in operation eight years, without any flaw having been brought to light in its machinery."

In another part of his report Mr. Lytton says:

"To attain this result—to secure the adequate representation of every tangible opinion and corporate interest in such a way that while the majority of electors shall be able to name the majority, the minority of the electors shall be insured an equivalent minority in the representation—this is the great problem which in 1855 Mr. Andræ undertook to solve. Of all men in this country, his Excellency was, in many respects, the most fitted by antecedent experience and natural qualifications to succeed in the task which he thus spontaneously attempted. Mr. Andræ is a man of original and speculative intellect, a keen investigator, a bold thinker, admitted by all his countrymen to be the first mathematician in Denmark, and from his position as Minister of Finance, experienced in the art of bringing the fundamental principles of abstract calculation practically to bear on complicated facts. * * * * I have been assured by Mr. Andræ, that in his opinion, the general standard of representative character supplied by this law is the

best and highest in the country; and that although he does not consider that a sufficient time has yet elapsed, whereby to test the effects of the law upon the constituencies themselves, he is, nevertheless, of opinion that under its operation the character of the voter as a class has improved and is improving. I have every reason to believe, moreover, that bribery is almost unknown to the constituencies for the Rigsraad."

It may also be added that the preferential vote first used in Denmark by a royal decree of 1853, was in 1863 indorsed by the Rigsraad, or legislative assembly, by a strong vote, and in 1866 was embodied in the constitution of the kingdom without a contest. Since that date it has also been extended to all elections in municipalities, and in synods and other ecclesiastical bodies throughout the kingdom.

Neither in England nor the United States, however, has this method of voting been adopted, though there is now pending before Parliament a bill to apply the principle to all Parliamentary elections, and in 1870 an experimental election of a Board of Overseers of Harvard College was conducted upon that plan.

In 1859 Mr. HARE published his work on "The Machinery of Representation," strongly advocating the preferential vote, and in 1869 brought out a new and enlarged edition, or rather a separate work, entitled "A Treatise on the Election of Representatives." In October, 1867, Mr. Hare invited the Reform League to discuss his system, and February 29, 1868, the debate took place.

"The chair was taken by Mr. Beales, and the meeting included Mr. J. Stuart Mill, M.P., Mr. Fawcett, M.P., Mr. Morrison, M.P., Mr. T. Hare, the Hon. Auberon Herbert, and others. The President said the conference was a reply to a public invitation by Mr. Hare to the League, to discuss fully his representative system. In that letter it was said:

"The first subject of inquiry is of the proper basis of the constituency, whether it should depend on antiquity and tradition, or on geographical position, as at present; or on extent of area, amount of property, of taxation, number of population, or of voters, or what else;" [and the discussion announced for the meeting was on the suggestion] "that the true basis of distribution is the number of votes actually polled in every county, city, and borough, or other electoral community, at each general election; and that to this end the writ addressed to every county, etc., should direct the proper officer to return, as its representative or representatives, so many members, if more than one, as shall be equal to the proportion which the number of its actual voters bears to the total number of voters in the kingdom, according to the provisions of the electoral law. Thus, if 1,800,000 votes be polled, and 600 members are to be chosen, 3,000 votes, or one six-hundredth part, will be sufficient for the election of a candidate. If a county or borough poll 30,000 votes, the sheriff or mayor will return ten members; if

3,000, one member; if less, one member; but in that case, on condition that he had made up the quota from his supporters in the neighborhood, or in other towns, or elsewhere."

A letter was then read from Mr. FREDERIC HARRISON, saying:

"I am thoroughly opposed to the scheme suggested by Mr. Hare. I confess that I cannot understand the plan, which appears to be so complex that its accomplished author can hardly find a name for it. The least complexity in the electoral system must throw it into the hands of professional wire-pullers, and what can hardly be made intelligible in a course of lectures cannot work in practice. I have no doubt that the plan secures representation mathematically. But I am not sure we need representation alone."

Mr. HARE said:

"He need only refer to the principle of distribution he proposed, because it was stated in a paper that had been for some time before them. He might illustrate it by supposing that fifty persons now present were called upon to choose from ten candidates a committee of five. Instead of dividing them into five sections, according to their accidental position, allotting to each two candidates, and requiring every section, however they may differ among themselves, to select one of two, the true method of bringing out the judgment and discretion of all would be to permit any ten of their number to elect one, thus giving to every elector a choice from the whole list. It, in fact, substituted unanimous constituencies, united by personal confidence, for artificial combinations. It was not so much the introduction of a new system as the abolition of the restrictions of the old, and adapting it to the free intercommunication of this present day. It had been fully developed in the draft of an electoral statute now for some years before the public. If any detail were not clear, or its operation were questionable to those who were present, he was ready to explain it further. The chief objections taken to the principle were: first, that it was calculated to represent minorities rather than majorities; and secondly, that it was personal, and not local representation. These objections were utterly unfounded in fact. It afforded the most perfect representation of all majorities, for it carefully economized their force, so that none might be lost or thrown away. Look at the reckless waste of energy in our present barbarous struggles. Six thousand went to the poll to overpower perhaps three thousand, when their votes properly husbanded might be twice as effectual. They would see by the form of the voting-paper that each elector was able to pass his vote to his next favorite candidate, when those he placed higher had succeeded. It helped only the minorities that were popular enough to acquire the rank of a majority. Then it was said the plan was adverse to localities. It was exactly the contrary. It afforded the largest scope for local representation which had ever been devised. A hundred towns, important enough to be distinctly represented, might immediately be created separate electoral communities, and instead of disfranchisement of localities, as all other extensive schemes proposed, every borough would be preserved, but with no other than its exact share of political power. The proposed law recognized communities alone, and not persons, except in the isolated cases of single elections to fill vacancies. He should be glad to have a local discussion, say, in three boroughs, one of the largest, one of the five of middle size, and one of the five smallest, and he had little fear of obtaining the adhesion of every thoughtful

man in each community, excluding, perhaps, those who profited by the existing system. Let them look at the comparative simplicity of action. All the constantly recurring questions of boundary were avoided, together with all party attempts to parcel districts so as to group majorities of their friends—political contrivances which in the decennial distribution in America were so well known as to have acquired the name of "Gerrymandering." Again, look at its equitable operation as between England, Scotland, and Ireland. One of his earliest conversations on the subject was many years ago with an Irish barrister, and he well remembered the enthusiasm awakened by the suggestion of such a degree of freedom and scope for the votes of Irishmen wherever they might live. [Cheers.] With such a representation we should have no dispute as to the real sentiments of the Irish people, for they would be expressed with mathematical certainty. Justice would be done to every part of the three kingdoms, whilst the total number of members might remain the same, or even be without difficulty reduced to six hundred. But these questions of mere arrangement, great as their importance was, sank into insignificance when compared with the operation of the method of electoral action on the welfare of the nation, and the character and happiness of the individual man. Government was a complex science. How many problems arose in the moulding of ancient laws to suit our rapidly progressive social condition? How many were now under review, or what indeed was not? Popular education, the claims of labor, the laws of property, settlement, inheritance, succession—the conflicting rights of creditors, and the absolution of debtors, currency and exchange, poor-laws, the economical imposition and expenditure of national and local taxation, the duties of nations to each other—all these questions were to be solved by the assembly we elected, and its capacity depended on the knowledge and thought of the people. We allowed and encouraged 3,000 electors to outvote 2,000 of their neighbors; but could we afford to extinguish the intelligence of the 2,000, or to employ the 3,000 so profitably? We were not so rich in political wisdom that all this portion of the national judgment and discrimination could be spared. Let us so frame our institutions that the thoughts of every reflecting man might be made fruitful in the choice of those who were to be trusted with government. From considering aggregate results let us turn to the effect on the individual voter—the wide field of choice, the aspirations it encouraged, the personal responsibility it brought home to every man. These consequences were exhibited by the very objections the ablest opponents of the system raised. One had given a list of popular names in politics, literature, and art, who would be returned by overwhelming numbers, another insisted that there would be immoderate representatives of every 'ism' in England—that some would be sent to support direct and others indirect taxation—some to regulate or restrain Sunday labor or recreation—another objector said that a merit of our geographical divisions was that the electors were not bound together by any unity of belief; the member was free because the constituency was not in earnest. A voluntary constituency, he said, would be a church with tenets, it would be a missionary constituency. Could we consider the state of the masses of our population without feeling that it was missionary constituencies which we wanted? [Cheers.] Take the condition of the poorer classes of the metropolis as an example, their dwellings and all the sordid surroundings of childhood and youth. If, instead of a metropolitan representation feeble from its number, and the divided interests and objects of the constituents, London were represented in proportion to its voters, elected by constituencies voluntarily associated, the vast materials at hand for elevating the moral and intellectual condition of its poorer inhabitants would be made useful, and in a few years

their social condition would be altogether raised. But all these objections to voluntary constituencies in truth resolved themselves into this—that the voters could not be trusted with so much discretion and power. He argued, on the contrary, that it was in this very trust, and in the cultivation of the mental powers to which it led, that our hope of the elevation of the masses was found. It offered to every voter the contemplation of some ideal of excellence or worth, either in persons or things, with the assurance that he might do something to add to its weight and recommend its acceptance. The exercise of such a power would gradually raise the ideal standard in every mind. This was no mere fancy of his own. It had been contemplated by those who in former ages had treated on the problem of government, and who had helped to build up the fabric of constitutional liberty. A highly suggestive essay of this month, by Professor Seely, brought before us the political opinions of Milton, and pointed out the culture of the people as the larger half of politics. 'Milton,' as Mr. Seely says, 'saw better than our later political writers how vast the results of culture might be if it could add to its organization liberty. He beheld in his vision the nation throwing off tutelage, and assuming the rights of manhood, with an education suited to its maturity and independence. He claimed for it the franchises of the study, of the library, of the pulpit. We add at this day the franchises of industry, of the workshop, of the plough.' With the same writer we might say how lamentable it was that so much virtue and genius were lost through neglect—neglect which in the lower classes had been hitherto almost total. Whatever great capacities nature had sown there have been almost entirely lost to the world—left to themselves, stifled under low cares and drudgery. But under fitting circumstances, why might they not do what the more fortunate classes had done, and therefore what infinite hope lay in a political system which should substitute earnest effort, the result of strong convictions, for timid conventionalism and insincerity—which, in addressing the masses, should bring before them in every aspect, as one of the essential conditions of political success, and without fear of departing from a stereotyped creed, the great varieties of political doctrine and opinion? A system which, instead of abandoning the people to apathy, or seeking by every kind of questionable influence to stimulate their exertion in favor of mediocrities, whom no stretch of imagination could exalt, should call forth leaders who would really teach and guide. We should thus obtain the liberty and organization which Milton sought. While by arming the entire intellect of the country on our side we should make liberty secure; we should acquire the benefit of intelligent organization; liberty to insure supply of power, and organization to bring that power to bear. It would become the political as well as the personal work of every one, not only to do his own will, but to study what was best to be done. An indispensable step was, as he believed, the abolition of the electoral barriers which our present system maintained—barriers which were inevitable in rude and illiterate ages, but were both unnecessary and unsuited to the present state of society." [Cheers.]

Mr. ALLISON said:

"He had read Mr. Hare's book but could not understand it; it did not say what the plan of representation was to be—at least sufficiently plain for ordinary comprehension. The tendency of the scheme appeared to be to throw the whole of the constituencies of the kingdom into one. Mr. Mill, in his book on Liberty, stated that there were two principles that should never be lost sight of—individuality and uniformity, or what was general. In Mr. Hare's scheme individuality was entirely lost sight of, and if we de-

stroyed individuality in the representation of any country we should run a great risk of destroying the individuality of the persons represented. It would be a very lamentable thing if the constituencies were all to be made one, like a flock of sheep, or a regiment of soldiers."

Professor FAWCETT, M.P., said:

"The pleasure he derived from the conference might be imagined when he stated that the first political thing he ever did was to write a pamphlet in defence, or rather explanation, of Mr. Hare's scheme. That was ten years ago. He had thought anxiously and carefully upon the subject ever since, and had read every attack made upon it, and could say that the more he had thought and read, the more he had seen it attacked, the more he became convinced that the country would never be truly, properly, or justly represented until we possessed some scheme like that proposed by Mr. Hare. Some of the objections that had been urged could be very easily answered. The objection by Mr. Frederick Harrison, who, from his intellect and great power of writing, held a very influential position in the country, ought to be first considered. Mr. Harrison's main objection was that Mr. Hare's scheme would throw the elections into the hands of professional wire-pullers; whereas the great argument he [Mr. Fawcett] would urge in favor of the scheme was, that it would have a contrary effect; because if any man wanted to exercise a free, independent, and intelligent electoral choice, all the professional wire-pullers in the world could not deprive him, though he were the humblest individual in the world, from exercising it. [Cheers.] Many members of Parliament were at the present time in the hands of professional wire-pullers. The great constituencies sent their members, but the great body of the electors had not much power in choosing them. Under Mr. Hare's scheme, if there was a man who was considered by 3,000 persons scattered throughout the country to be the man they should like to represent them in the House of Commons (supposing 3,000 to be the quota), they could exercise a free and independent choice and return him; and that was certainly a very great advantage. It had been said that the whole scheme might be rendered nugatory if 30,000 men were determined to vote for one single individual. Suppose, for example, Birmingham had its due number of members allotted to it, and there were eight or ten representatives—the present system could be rendered just as nugatory if all the electors determined to vote for Mr. Bright, and there would be no more reason why people should commit an act of absurdity under Mr. Hare's scheme than under the existing system. It had been objected, too, that a great many voters might wish to vote for one particular member. Hence a man admiring Mr. Mill, whether he lived at Land's End or in Westminster, or whether Mr. Mill wanted a vote or not, would determine to vote for him, and would therefore place his name first on his voting-paper, because of his respect and admiration. He [Mr. Fawcett] should do exactly the same, and if Mr. Mill in that way secured, say, 500,000 votes, it would give the country an opportunity of showing their great respect for and estimation of Mr. Mill, and it would not in the least degree diminish the voters' power of putting down after Mr. Mill's name eight, nine, ten, or any other number of candidates whom they would like to see in Parliament, but who were not as well known as Mr. Mill. Suppose they began by putting down upon the voting-paper five well-known names, just to show their respect; that would be a very good thing, because they would have the opportunity afterwards of adding the names of others not so well known, perhaps, but who would be thought very desirable men to have in Parliament. One advantage

of the scheme which ought to be specially attended to was that it would reduce the expenses of elections to an extremely small figure, and if something was not speedily done in this direction the House of Commons would lose its efficiency; it would become simply a rich man's house. He knew scores of men far above the average of men in the House of Commons who would do everything they possibly could by study and careful reflection of political questions, whose sympathies were with the people and with right, justice, and truth, and who would enter the House of Commons, but they had no chance against the wealthy nonentities. [Cheers.] Under this scheme any man who from his writings, however poor he might be, or from the position and respect he had gained amongst his fellow-citizens, or even fellow-workmen, was considered fit to be a member of Parliament, if he could get 3,000 votes in the country might be returned without any of the expensive, corrupting, and degrading influences of modern elections; he would simply have to deposit a sum nominally, and then he would be returned as a free and unfettered man to do his duty in the House of Commons."

Mr. WALTER MORRISON, M.P., said:

"He thought the way in which Mr. Hare's scheme dealt with the present power of minorities was a practical point in its favor. Members of Parliament were often accused of not going along fast enough to reform our institutions, social and political. Every reform was sure to injure, or at least to appear to injure, a certain number of the constituents, and whenever there was a proposition made to the House, the members received letters setting forth how certain persons in such and such a street of the borough were interested in the matter. [Laughter.] He concurred in the theory of Mr. Hare's scheme, but he foresaw a considerable difficulty in working it, and an enormous difficulty in inducing the House of Commons to accept it. Therefore he should like to see a modification of the plan; he would take the population of each county in England and give it a certain number of members in proportion to its population, in the same way as it was managed in the distribution of the representation in the American Congress now. A plan like that might be revised every ten or twenty years. He should like to see Mr. Hare's plan applied within the limits of particular counties or districts. During the discussion reference had been made to the proposal to declare by means of the telegraph from a central executive body the results of elections. It would be necessary to be extremely careful with anything of that sort, and things should be so managed that the names of the candidates should be efficiently published and kept in a record office. In America the proposal was a very curious one. A society called the Personal Representation Association had been formed recently, and their proposal for us was this: If Mr. Bright were a candidate he would probably get 300,000 votes; then supposing 3,000 to be the quota, Mr. Bright would be the member for 300,000 persons, but instead of having one vote in a division he would reckon 100." [Laughter.]

Mr. BOYD KINNEAR said:

"He felt some difficulty with regard to Mr. Hare's scheme, and was one of those who was not able to understand it. To a certain point he could understand it extremely well. It was very easy to see that a man might make a list of the members for whom he wished to vote, and that the superfluous names elected elsewhere might be struck off the list. The point he had never been able to understand was—whose votes were we to strike off? Therefore, with the best desire to understand a plan which had many

advantages, he could not see how it could be made workable. If it were made comprehensible to the clever men of the country, which was all that would be arrived at, it would be an unfortunate thing if all the stupid men must take on trust the opinions of those who were abler. But there were one or two other objections. One that he had always felt very strongly was that when this scheme came actually into operation, the connection that now existed between a member and his constituents would cease, because with a constituency scattered all over the country personal communication would be impossible. Here and there an individual voter might write a letter, and the member would answer it, but there could be no meetings between them, and this he should regret, believing there was a great advantage in the personal connection between a member of Parliament and his constituents. Although in the election of a merely local candidate this objection would not hold, as a rule the desirable relations between representatives and represented would be destroyed by Mr. Hare's plan. The plan also implied for its proper working the possession of a large amount of intelligence in the country, not merely for understanding it, but to insure its actual operation. It implied that a great many electors throughout the country would care so much about the various shades of public opinion, and about the true constitution of the House of Commons, that they would put down a considerable number of names from a desire to exercise an intelligent choice. He himself did not believe all that trouble would be taken."

Mr. EDWARDS said:

"One objection to Mr. Hare's plan was that it would give too much power to stump orators. [Laughter.] Any quack doctor might be elected." [Laughter.]

Mr. JOHN STUART MILL, M.P., said:

"Some objections had been made notably by Mr. Boyd Kinnear, which required to be met, and which had been met already by Mr. Hare. Attention had been drawn to some points without which the scheme would not work. Mr. Boyd Kinnear drew attention to one when he said the working of the plan would depend upon the manner in which it was determined what votes were to be struck off and what retained. If it were impossible to secure fairness in the selection, if there were no opening let in for partiality or favor, the plan would no doubt work ill. But there would be no difficulty in finding fairness. Mr. Kinnear said he thought it important there should be a constant communication kept up between the member and the electors, which he thought could not be the case under Mr. Hare's plan. It would, however, take place in a different, but still in as effectual a manner as under the present system. Leaving out celebrities who were known all over the country, it might be assumed that the great majority of persons elected to Parliament would be elected chiefly from particular neighborhoods, and, therefore, so far as regarded them the difficulty would not exist, because if a member went down to a place where he knew he had been voted for by a great number of persons, and held a public meeting, he had the opportunity of discussion with a large portion of his constituents, could answer questions, and give publicity to his sentiments. But if a great number of persons scattered over the country voted for some candidate, it might be safely concluded that every one of them would feel a special interest in that candidate, because they would have selected him from the whole country, and not because of his fitness for representing or connections with any particular neighborhood.

"It did not seem to him [Mr. Mill] that the intelligence required in electors by Mr. Hare's scheme was much greater than what it might be reasonably presumed would be possessed by the large body who were now called to be electors in the country. Any one of ordinary and average intelligence who could read and write would feel no difficulty after the first election under the new plan, because really what he would have to do would differ very little from what was done now; the only thing that would have to be explained was that although a man's vote could only be counted for one person, the person put down first might not need his vote, because he already had the requisite quota. It was therefore desirable the voter should put down a few more names in order that somebody else might have the probability of being elected. When the voter had once seized this idea, which was not at all an obscure one, there would be no difficulty again. No doubt in this, as in all systems of election, now and always, whether it worked well or ill, there must be organization; people must have concert; and wherever that was there would be a certain amount of power given to what had been termed the wire-pullers, but that would not be greater under Mr. Hare's plan than any other.

"Some said all the isms would be represented, and that the representatives in Parliament would not be representatives of the country so much as representatives of opinions hitherto confined to obstinate or crotchety people. Others averred that the whole of the electors would implicitly follow the leaders of parties. These two objections, however, might pair off, because the suppositions upon which they rested were indirectly opposite. Nevertheless, both anticipations deserved consideration, because he thought precisely these two influences would, by working against one another, produce a better house than we could otherwise have. Taking the sectarian bodies, and selecting the teetotallers as a type of the persons whom it was alleged would be over-represented, there was this to be said. The objection assumed that all the teetotallers all over the country would elect people who were nothing but teetotallers, and had no other recommendation whatever. That was the reverse of what they were likely to do, because being anxious to make their own opinions prevail, and knowing they were not a majority of themselves, they would have the strongest possible interest in putting on their list not only candidates who were teetotallers, but candidates who would be likely on other grounds to be voted for by people who were not teetotallers. It would operate in the same way with the isms. How would it operate on the great parties? Let it be supposed that by the management of the lists the two parties would get a great many votes. That could not be helped, because the parties embraced an enormous majority of the people of the country; but the managers of the parties also would be interested in putting on their lists men who were favorable to the bodies and the isms it was supposed necessary to have represented in Parliament."

At a subsequent meeting of those participating in this debate a committee was appointed to prepare a report on Mr. Hare's scheme of representation, and on the 23d of May, 1868, this committee, consisting of Edmond Beales, W. R. Cremer, G. J. Holyoake, Walter Morrison, R. A. Cooper, George Odger, James Acland, Thos. Hare, and George Howell, reported. The report says:

"If the true object be that of government emanating from and con-

trolled by the people, it will follow that no method can be perfect unless it fulfils the following conditions:

"1st. The Representative Assembly must really and truly represent the opinions and feelings of the electors, and be such as to insure that the majority of those who vote at each election shall rule.

"2d. It is expedient in the interests of the majority themselves as well as of the entire community, that no decision should be arrived at on any important issue without debate. It is not enough that this opportunity of discussion should be permitted in the press and on the platform; it should be so likewise in debate in the Representative Chamber, where argument cannot be disregarded, and must be answered.

"3d. The method of election should be such as will insure the return to Parliament of the ablest representatives, by the free and conscientious choice of the electors, exercising their individual criticism and judgment as they would exercise it in the other affairs of life.

"*First*, The present system does not secure our first condition: that of a government by the majority.

"As the majorities in each constituency return representatives, and the majority of these representatives make the laws, it may happen that the majority in Parliament may represent only a few more than one-fourth of the whole number of electors polling; nay, the majority in the Representative Chamber may and often does represent a minority of the electors, even with a system of equal electoral districts. One tendency of our present system is to divide the electors into parties, and when parties are equally balanced and a few votes will turn the scale, it frequently has happened, and will happen again, that a small minority having the balance of power may virtually rule the state.

"*Secondly*, It does not satisfy the second condition: that of insuring full and genuine discussion of public questions.

"One example will suffice. There is not one member in the Congress of the United States of America who can represent the free-traders of the United States and expose the fallacy and selfishness of protective tariffs, though the free-traders of America are numbered by hundreds of thousands. So, too, labor is unrepresented in the British Parliament. Candidates for a seat in Parliament may pledge themselves to the working-class electors to devote a zealous attention to their interests, and may honestly desire their welfare, and yet, not being themselves of that class, or familiar with its daily experience, be wholly unable to enter into, or represent faithfully, their feelings, wants, or sympathies.

"*Thirdly*, How far does our system tend to fill Parliament with the best and ablest representatives?

"The elector is allowed the barren honor of taking part in the *election* of his member, but, for the most part, all choice in the *selection* of the candidate is denied him. The candidate having the best chance of success is he who is burdened by no particular opinions or convictions, but who can repeat most faithfully by rote the party shibboleth for the time being. He is selected either by the political club, or some busy local pettifogging magnates, and so 'pitchforked' among the constituents. Even in the most favorable cases, where the party managers in the constituency are elected by the members of the party, the candidate must necessarily be nominated behind the backs of most of the electors, and once he is thus accepted as the party candidate, the individual voter is thenceforth bound hand and foot, with the consciousness that if he objects to the candidate thus thrust upon him, and refuses to vote at all, or brings forward another candidate, he only helps to secure the triumph of the opposite party, and in no way advances

his own views. And, finally, it is notorious that some of the best men are debarred from entering Parliament by the inevitable expenses of an election."

The operation of Mr. HARE'S system is then illustrated by taking Manchester as an example:

"Suppose that city to contain electors sufficient in number, intelligence, and activity to return ten or twelve members, and that for these ten or twelve seats there are twenty candidates whom we will name by the letters of the alphabet—A, B, etc. The professional classes, the manufacturers, the warehousemen, the shopkeepers, the working-classes, would all probably have among these candidates their favorites—men who had addressed themselves to the questions in which the especial interests, or supposed interests, of each class are apparently concerned; and in framing their voting-papers they would be likely to place the name of such favorite candidate as No. 1, still without withdrawing their support from other candidates with whom their general political opinions should coincide. The names of such other candidates they might place in the order of their preference, as No. 2, 3, and 4, etc. Each voter might thus go through the list of candidates, and place on his voting-paper all the names of those of whom he approved. Polling-places, each distinctly numbered, would be appointed in each district at which the votes of that district must be deposited, every paper being numbered consecutively as it is brought in. From these polling-places the votes would be collected every hour, and brought to the Town Hall, where, under the superintendence of the Mayor and his assistants, the votes polled for every candidate (looking for this purpose only at the candidate No. 1, on each paper) will be arranged in a distinct heap or file, in numerical order, as they were received at each polling-place successively, Suppose these files or heaps of voting-papers at the close of the poll to stand thus:

A	10,000	L	500
B	9,000	M	400
C	5,000	N	300
D	3,000	O	200
E	2,000	P	190
F	1,000	Q	180
G	900	R	170
H	800	S	160
I	700	T	150
K	600	U	140

and that, in addition to these, there are voting-papers having at the head the names of Scotch, Irish, Metropolitan, or provincial candidates—

W	70	Y	10
X	60	Z	5

"It will be seen that A, B, and C have many more votes than they will need, and therefore the candidates named second, or subsequently, on many of the papers, will probably have the benefit of the surplus votes. This will be ascertained as soon as the quota (explained before) is made known. Take it to be 3,000. In that case 7,000 of A's votes, 6,000 of B's, and 2,000 of C's will be liberated from the first three files or heaps and be applicable for the next person whom every elector has chosen to name.

"Here the question again is commonly asked, which electors' votes are to be set apart as the respective constituencies of A, B, and C, and which

votes are to go on to the next candidates? It has been said that the files or heaps have been placed in the numerical order of the votes as received at each polling-place, and then have been taken from each polling-place in its regular turn. The Mayor will then take the 3,000 voting-papers at the top of the file or heap of 10,000 given for A, which will be the votes polled for him latest in the day, and these 3,000 will finally be set aside. In addition to this order of appropriation one additional rule will be observed, which is this: That if any voting-paper contains one name only, that paper must be taken for the candidate so named before any other paper with more names on it. Indeed, in such a case, the vote can, of course, be given to no other than the single candidate named.

"A stamp, 'not required,' will then be impressed across the name of A, on the other 7,000 papers, and they will be used for the next candidate on each paper, precisely as if the next name stood No. 1; and the same course will be pursued until all the papers above the quotas are redistributed as each elector has directed.

"The result of the computation in Manchester might stand thus:

A	3,000	O	900
B	3,000	P	700
C	3,000	Q	500
D	3,000	R	300
E	3,000	S	200
F	3,000	T	150
G	2,500	U	140
H	2,400	W	80
I	2,000	X	60
K	1,900	Y	30
L	1,800	Z	5
M	1,700	ZZ	3
N	1,000		

The Mayor of Manchester would then immediately return A, B, C, D, E, and F, as duly elected, intimating that he has reserved his return of other candidates until the Registrars meeting at a central spot have ascertained and reported which of the other candidates have obtained sufficient votes in other places to make up the quota or comparative majority."

Some of the objections to the scheme are then noted and answered:

"OBJECTION. That local representation is indispensable, and that Mr. Hare's system is incompatible with it.—Upon this point the foregoing explanation is a sufficient answer. It shows that all the undoubted advantages of personal acquaintance and mutual communication between electors and candidates, arising from local connection or introduction, are preserved; and that even more scope is afforded than now for gratifying the just local pride of being represented by a member of high reputation.

"OBJECTION. That the system is too complex for adoption in practice, for the use of electors who consist of persons of all degrees of education and intelligence, many of whom would not comprehend it.—To this it is answered, first, that supposing it to be so complex that it required some preliminary instruction in the elector, the object of government is justice and not simplicity, except in so far that every individual may be readily taught how to perform his part in it. There is nothing in the proposed method of voting which requires any mental effort too great for any person competent to vote.

"OBJECTION. That the minority of a borough or district is not entitled to be represented; and that the remedy for the exclusion is to agitate and discuss the matter in difference until they become the majority.—To this it is replied that, even supposing the question to be one exclusively of principle, and not of persons, the example before referred to, of the absence of all the advocates of free trade from the American Congress, is enough to show how political progress may be retarded by the systematic exclusion of all the minorities of the nation from the Legislative Assembly.

"OBJECTION. That all crotchets or 'isms' that form the political creed of one out of every six or seven hundred voters in the kingdom might have representatives in Parliament; that the advocacy of such peculiar views would impede the public business of the country; that members chosen for such special objects would be likely to be acquainted with little else, and the system would thus bring to the House men of inferior talent.—To this it is answered that so large a body of voters as should amount to a quotient of electors, entertaining a conviction that a particular measure would promote the general welfare, are entitled, in a self-governed nation, to a representative of their views; that the occasions on which any special principle can be introduced in practical legislation are not so many that its advocacy would interfere with the general business of the kingdom; and that the probability is that, instead of selecting a member inferior in average capacity, a section which elects a representative with the object of promoting special views, will seek for the ablest man they can find.

"OBJECTION. That it will facilitate and encourage bribery, enabling a wealthy candidate to secure a seat by buying up a quota of votes from among the poorer classes in obscure quarters of various towns, and thus escape public attention.—The answer is that it diminishes the temptation to accept bribes by reducing the money value of each vote to the smallest possible amount, that it augments the expense and difficulty of the briber by multiplying enormously the number of votes which it is necessary for him to purchase.

"OBJECTION. That it will create difficulties which will force the electors to place themselves entirely in the hands of the party agents or 'wire-pullers.' The purpose of the scheme is to liberate the voter from his present subjection to party tactics; but it is argued that it does not do this, because, although he may choose what candidate he pleases, he cannot know whether the candidate he places first on his voting-paper will or will not need his vote, and that inasmuch as to guard against the loss of his vote he must add many other names—such other names will be supplied to him by the party managers—as the ordinary elector cannot be expected to know more than two or three, or, at the most, a few of the whole body of candidates.

"Every voter may place at the head of his voting-paper the one, the two, or more candidates—whether for his own constituency or another—whom he may happen to know and in whom he has the highest confidence, unfettered by any election manager whatsoever, with the utmost possible chance that his vote will be neither useless nor thrown away; and with the certainty that he has contributed his share to the work of national self-government, even if he has done no more than add to the number of the supporters of the statesman he trusts. This discretion alone would elevate, in importance and dignity, the act of voting. He may, in addition to this, acting independently of party, as many of the most thoughtful voters in the kingdom probably would, go on to select for the additional names on his voting-paper those of candidates whose works or public conduct he had read or observed, and whose opinions and character he approved of.

"OBJECTION. That representatives elected by the voluntary association of constituencies, as Mr. Hare proposes, would be likely to have specific objects of political or social amelioration in view, which they would pursue with missionary ardor; that such earnestness would interfere with the steady and quiet progress of parliamentary government, by the immoderate zeal of members for experimental improvement; that it would be difficult to form cabinets capable or willing to undertake such projects of amendment; and that the present sobriety and moderation of Parliament are due to the fact that the constituencies being composed of persons of diverse views, the representative is excused from being, even if it were safe for him to be, earnest in any specific improvement. It is answered that there are a multitude of evils in the political and social condition of the vast masses of the people which require prompt and serious attention and legislation with a view to their removal; that the amendment of many existing laws, and the making of new ones to this end, cannot too soon be undertaken; that if there be anything in our system of parliamentary government which stands in the way of such reforms, it is that which requires to be corrected; and that there is no reason for making representation untruthful in order to preserve it."

Succeeding this report, a Representative Reform Association was established, June 13, 1868, "to promote such amendments in the Representative System of Government as shall apportion justly the number of members of the representative body to that of electors or population, so as to secure, in all places, not merely what is called virtual, but real and complete representation of the constituents; to afford, at the same time, to the individual elector, the largest and freest choice of candidates, and full liberty and opportunity of voting for the candidate of his choice; to examine, compare, and discuss such methods as are or shall be proposed for accomplishing these objects; and with this view to form a centre of communication with the Personal Representation Society of New York, the Association Réformiste of Geneva, and other societies and persons having similar designs."

Of the Preferential Vote, Mr. Mill speaks in high terms:

"In my conviction, Mr. Hare's scheme is among the very greatest improvements yet made in the theory and practice of government. In the first place, it secures a representation, in proportion to numbers, of every division of the electoral body: not two great parties alone, with perhaps a few large sectional minorities in particular places, but every minority in the whole nation, consisting of a sufficiently large number to be, on principles of equal justice, entitled to a representative. Secondly, no elector would, as at present, be nominally represented by some one whom he has not chosen. Every member of the house would be the representative of a unanimous constituency. He would represent a thousand electors, or two thousand, or five thousand, or ten thousand, as the *quota* might be, every one of whom would have not only voted for him, but selected him from the whole country; not only from the assortment of two or three, perhaps, rotten oranges which may be the only choice offered to him in his local market. Under this re-

lation, the tie between the elector and the representative would be of a strength and a value of which at present we have no experience. Every one of the electors would be personally identified with his representative, and the representative with his constituents. * * * * On Mr. Hare's system, those who did not like the local candidates or who could not succeed in carrying the local candidate they preferred, would have the power to fill up their voting-papers by a selection from all the persons of national reputation, as the list of candidates with whose general political principles they were in sympathy. Almost every person, therefore, who had made himself in any way honorably distinguished, though devoid of local influence, and having allegiance to no political party, would have a fair chance of making up the quota: and with this encouragement such persons might be expected to offer themselves in numbers hitherto undreamt of."

In the early part of 1872, "A Bill to make Provision for Proportional Representation of the People, and otherwise amend the Laws relating to the Representation of the People of England and Wales," which provides for an application of the Preferential Vote to all Parliamentary elections, was brought into Parliament. For copies of this act, which was ordered on the 28th of February, 1872, by the House of Commons to be printed, the author of this work is indebted to the mover of the bill, Mr. Walter Morrison, M.P. Its leading provisions are:

WHEREAS it is expedient that the members to be returned to Parliament for England and Wales should be elected in such a manner as to represent the opinions of all the electors in proportion to the prevalence of such opinions from time to time so far as practicable:

And whereas it is also expedient that the number of members returned by each constituency should be, so far as practicable, in proportion to the population of such constituency from time to time:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

This Act may be cited as the "Proportional Representation Act, 1872."

A re-adjustment of the constituencies and of the numbers of members to be returned for the constituencies, according to the population for the time being shall be made after every census as follows:

The number to be found by dividing the population of England and Wales (as ascertained in the census) by the number of members for the time being to be returned for England and Wales, the fraction (if any) remaining from the division being disregarded, shall be the number of persons entitled to be represented by one member, and is in this Act hereinafter referred to as "the quotient."

There shall be assigned to each constituency so many members as the constituency contains entire multiples of the quotient.

If by reason of the omission of the fractions of quotients remaining after the assignment of members to entire multiples of the quotient, there remain any members not assigned to constituencies, they shall be supplementally assigned one by one in succession (in addition to the other members

previously assigned) to the several constituencies showing the largest such fractions.

A candidate shall be nominated by writing in the prescribed form, signed by not less than *twenty* nor more than *fifty* electors for the constituency, and delivered to the returning officer at the place and time appointed for the nomination.

The returning officer shall attend for not less than *one hour* at the time and place appointed for the nomination. During that hour any candidate may be withdrawn by writing, signed by him or on his behalf, and delivered to the returning officer, but a candidate shall not afterwards be withdrawn.

At the end of the hour, if there are not more candidates than vacancies, all the candidates shall be declared elected, and their names shall be returned to the Clerk of the Crown in Chancery. If there are fewer candidates than vacancies, a supplemental election shall be appointed for the purpose of filling the remaining vacancies; if there are more candidates than vacancies, a poll shall be taken.

—The following provisions shall have effect with reference to a poll:

Each elector shall have one vote only.

The votes shall be given by voting-papers delivered by the electors in person.

The voting-paper of an elector shall be deemed to have been given for the candidate first named thereon, but the elector may, if he think fit, designate one or more other candidates to whom in succession, in the designated order of priority, he desires that his vote should be transferred, in the event of its not being required to be used for the return of any prior candidate. The number of candidates named on a voting-paper, including the candidate first named, must not be greater than the number of vacancies.

A candidate, in order that he may be returned at an election, must (subject as hereinafter in this Act expressly provided) have given for him a number of voting-papers (hereinafter in this Act referred to as the "quota") to be found by dividing the total number of voting-papers given at the election by the number of vacancies to be filled at the election (the fraction, if any, remaining from the division being disregarded).

A voting-paper shall be filled up in writing by the elector at the polling-booth, provided that the returning officer shall, at the request of an elector who states that he is unable to write, fill up the voting-paper of such elector as he directs.

Every voting-paper shall be void which either—

Contains the names of more candidates than there are vacancies: or

Contains any mark by which the elector can be identified.

And a void voting-paper shall not be counted or deemed to have been given.

After the close of a poll the voting-papers shall be dealt with by the returning officer as follows:

He shall cause the voting-papers to be collected, and shall ascertain the total number of voting-papers exclusive of void voting-papers, and of voting-papers on which no candidate is legibly named. His decision as to whether a voting-paper is void or a name is illegible shall be final, subject to reversal on a petition.

He shall ascertain and declare the quota necessary for the return of a member.

He shall arrange the voting-papers given for the several candidates in separate parcels, and shall in the parcel of each candidate sort his voting-papers according to the numbers of names upon them, placing at the top

those voting-papers in which no other candidate is designated, and then those in succession in which the fewest other candidates are designated, and placing last those in which the greatest number of other candidates are designated.

He shall proceed to make one or more scrutinies (as the case may require) according to the provisions hereinafter in this Act contained.

The first scrutiny shall be made in the following manner:

The total number of voting-papers given for each candidate shall be counted in the order in which they are arranged, and shall be recorded; and every candidate whose voting-papers equal or exceed the quota shall be declared elected:

When a candidate is declared elected, his voting-papers shall be dealt with as follows:

His voting-papers used in making up his quota shall be set aside as exhausted:

His voting-papers counted after his quota was reached shall be deemed to be unused:

An unused voting-paper of an elected candidate shall be transferred to and be deemed to have been given for the unelected candidate (if any) first designated thereon, and shall be counted to him after and in addition to the voting-papers (if any) originally given for him; and any candidate whose voting-papers are by this means raised to the quota shall be declared elected, and his voting-papers shall be dealt with as voting-papers of an elected candidate.

The unused voting-papers transferred to a candidate may be counted to him in any order in which they happen to be taken.

A second or other scrutiny shall (if necessary) be made in the following manner:

The lowest candidate on the preceding scrutiny shall be excluded and declared not elected; and, if there still remain more candidates than vacancies, all the voting-papers of the excluded candidate shall be deemed to be unused, and shall, with the unused voting-papers (if any) remaining from the preceding scrutiny, be respectively transferred to and counted for the first of the remaining candidates (if any) designated thereon, and any candidate so obtaining the quota shall be declared elected, and his voting-papers shall be dealt with as voting-papers of an elected candidate:

The same process of excluding the lowest candidate on the preceding scrutiny, and of transferring unused voting-papers, shall be repeated so often as may be necessary until all the vacancies are filled by the election of candidates obtaining the quota of voting-papers, or there remain no more candidates than vacancies:

When there remain no more candidates than vacancies, all the remaining candidates shall be declared elected, whether they have obtained the quota or not:

In case two or more candidates have equal numbers of voting-papers in a scrutiny, that one of them shall be deemed to be the lowest who had the fewest votes on the first scrutiny, and if they are still equal, the returning officer shall have a casting vote or votes.

Appended to the act are the necessary schedules, one apportioning England into 57, and Wales into two constituencies, each returning members at the rate of 1 for every 45,300 of population; a second prescribing the form of the nomination paper;

and the third containing the form of the voting-paper, or ballot, thus:

CONSTITUENCY OF _____

_____

The bearer of this voting-paper records his vote in favor of the candidate first named below, or if he shall have been declared elected before this voting-paper shall have been reckoned by the returning officer, then for the candidate named second, and so on in succession.

	Names of Candidates.*
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	

* The number of spaces in the voting-paper must be the same as the number of vacancies to be filled.

INSTRUCTIONS TO VOTERS.

1. Only one voting-paper may be delivered by each voter.
2. The voter may name only one candidate, or any number of candidates not exceeding the number of members to be returned by the above-named constituency at this election, namely, ——— candidates, on his voting-paper, in the order of his preference.
3. The full names of each candidate so named must be given, or the voting-paper will not be reckoned on behalf of such candidate.
4. No writing or mark shall be placed on the voting-papers other than the names of the candidates.
5. If there are two candidates nominated of the same names, the address, as it appears in the printed list of candidates, must also be given.
6. A voter must not vote more than once at the election. If he attempts to vote more than once he will be liable to a penalty of ten pounds.

Mr. Morrison's bill is thus, first, an adaptation of the Federal system of apportionment after each census, and, second, an application of the Preferential Vote in the elections held in the districts obtained by such apportionment.

In the United States the Preferential Vote has received no great favor. Some experimental elections have been held under the method, but no legislative approval has been given. In April, 1870, the Alumni of Harvard College applied the method to the election of a Board of Overseers of that institution, and in announcing the result, said:

"They had adopted the system for two reasons, first, that it promised to secure a perfectly fair representation of the various classes into which the alumni might be divided, securing to each interest that might manifest itself its proportionate share of candidates. This promise had been fulfilled. Each of the ten names reported was the unanimous choice of one-tenth of the electors voting, and one or two of these names at least exhibited the good result of the system in giving expression to the wishes of considerable numbers of persons who upon any other system of voting would have been simply outvoted and silenced. Secondly, the system promised to secure to each elector a perfect freedom of action, assuring him that however he voted his vote would not be lost, so that he might express his real mind without having to consider what other people were likely to do. Here, again, the system had proved a success. To those whose duty it was to inspect the ballots nothing was more striking than the frankness and sincerity, one might also say the *naïveté*, with which the electors had voted, so that each ballot, varying from every other, was the exact expression of the personal individuality of the elector who cast it. What the committee had feared was that the scheme would prove so complicated in its working that the electors would fail to understand what they were to do, or that the task of counting the ballots would be excessively laborious. On the contrary, the event had proved that, out of 380 votes, only five or six had been thrust out for informality. The counting of the votes had been easy and rapid, occupying only two or three hours, not nearly so much time as it took the committee to count the same number of votes last year under the old system, in which each elector sent in five names."

To test the preferential vote, as a preliminary to this election, the students of the School of the Institute were invited to vote upon the choice of four English authors as the best, in their view, in our literature. A ballot was prepared in the following form, and distributed among them:

PREFERENCE.		Please add to this list of authors any other names you may prefer, and then indicate your preference among them all by writing the figure 1 against your first choice, 2 against your second choice, and so on.
.	1.	BACON.
.	2.	SHAKESPEARE.
.	3.	SCOTT.
.	4.	BYRON.
.	5.	BURNS.
.	6.	MACAULAY.
.	7.	TENNYSON.
.	8.	THACKERAY.
.	9.	
.	10.	
.	11.	

The ballots were read in the order cast, and the following is the tally or register of the count kept:

TALLY. 144 VOTES. Four to be Elected. Quota, 36.	*First Count.* Shakespeare elected.	Shakespeare's surplus redistributed.	*Second Count.* No election.	Twenty-six scattering votes redistributed.	*Third Count.* Scott elected.	Milton's votes redistributed.	*Fourth Count.* No election.	Bacon's and Thackeray's votes redistributed.	*Fifth Count.* No election.	Byron's votes redistributed.	*Sixth Count.* No election.	Macaulay's votes redistributed.	*Seventh Count.* No election.	Dickens' votes redistributed.	*Eighth Count.* Tennyson elected.	Tennyson's surplus redistributed.	*Ninth Count.* Burns elected.
	I.		II.		III.		IV.		V.		VI.		VII.		VIII.		IX.
Bacon	4	..	4	..	4	..	4	[4]	..	..	..	..	..	..	..	..	..
Shakespeare	48	[12]	..	..	..	..	..	..	..	..	..	..	..	..	..	..	36
Scott	22	5	27	9	36	..	..	..	..	..	..	..	..	..	..	..	36
Byron	6	2	8	2	10	..	10	..	10	[10]	..	..	..	..	..	..	..
Burns	9	2	11	5	16	..	16	..	16	4	20	2	22	8	30	2	32
Macaulay	6	..	6	3	9	..	9	2	11	1	12	[12]	..	..	..	..	..
Tennyson	8	..	8	4	12	..	12	5	17	4	21	7	28	10	38	[2]	36
Thackeray	4	..	4	..	4	..	4	[4]	..	..	..	..	..	..	..	..	..
Dickens	11	2	13	..	13	1	14	1	15	1	16	2	18	[18]	..	..	..
Milton	..	1	1	1	2	[2]	..	..	..	..	..	..	..	..	..	..	..
Scattering	26	..	26	[26]	..	..	..	..	..	..	..	..	..	..	..	..	..
Lost	..	..	9	2	2	1	3	..	3	..	3	1	4	..	4	..	4
	144	12	144	26	144	2	144	8	144	10	144	12	144	18	144	2	144

On reading the first name on the 144 ballots cast, Bacon occurred 4 times, Shakespeare 48, Scott 22, and so on in the order named, Shakespeare alone having a *quota*, or being first choice on 36 ballots. He is, therefore, elected with 12 votes to spare, and now the count proceeds. Again are the ballots taken up and counted in the same order as at first, the ballot first cast being first inspected, and so on. Bacon is again, as a matter of course, first choice on 4 ballots; Scott on 22, and the rest as before, but 12 ballots have Shakespeare, who has already been elected, as first choice. Being already elected, he does not need these 12 votes, and they are, therefore, credited to the names indicated as second choice to Shakespeare, on the ballots where they severally appear. On 5 ballots Scott is second choice; on 2 each Byron, Burns, and Dickens; and on 1 Milton. To the first choice, or proper votes of these authors, is assigned, therefore, the second choice votes just named. Scott, having 22 first choice votes of his own, has, with his five second choice votes a total of 27; Byron has in the same way 8, Burns 11, Dickens 13, and Milton, who had none at first, comes in now for 1. This is the second count, but still no candidate has a *quota*. The surplus has now been redistributed, and as none of the long list of scattering first choices can now hope for an election, there being no previous choices to descend to them, they, too, descend to *their* second choices. For instance, Crabbe, Hooker, Pollok and 23 others have 1 first choice vote apiece, but do not appear on any other ballots than the one whereon they are so marked. They cannot by any possibility receive more than the vote already given, and it becomes proper to cancel them and count their second choice, if such there be, for some candidate still in the field. This done, it appears that Scott receives 9 second choice votes out of the 26 scattering first choice ballots, and, having already 27 votes, has now 36, or a *quota*, and is elected, the other votes standing as in Column III. As now the same argument applies to those who have but 2 first-choice votes as in case of those having but 1, *i.e.*, that they cannot now receive a *quota*, their votes, too, are distributed. The second choice on one of the Milton ballots goes to Dickens; that on the other is lost, going to some scattering author already out of the race.

There still being no *quota*, the 4 Bacon votes, being the next highest, are on the same ground distributed, and then, there still appearing no *quota*, the 10 Byron votes are distributed to their respective second choices. Still being no *quota*, the Macaulay votes are distributed, which elects Tennyson with a surplus, and then, on the distribution of Tennyson's surplus, Burns is elected. The numbered columns will be found, if the work be correct in any case, to add up the total number of votes, and the intermediate columns will in like manner show the total vote distributed on that count, thus affording facilities for checking the work as the count progresses.

In this report of the election Mr. WM. R. WARE says:

"In the casting of the votes three things were noticeable. In the first place, although no instructions or explanations whatever were given to the young men beyond those printed at the head of the ballot itself, very few votes had to be rejected on the score of informality. Out of 150 votes, 144 were correctly made out. In the second place, what errors were committed were all of one kind, consisting in the indication of two or three names as the voter's first choice, two or three as second choice, and so on. In the third place, a large number availed themselves of the permission to add to their list names not regularly in nomination, the followers of Mr. Dickens especially rallying handsomely to his support."

* * * * * * * * *

"It is not easy to say how practicable this scheme would prove in public affairs. But it would probably work perfectly well in the election of members of Congress, for instance, though, for convenience, the larger States would probably have to be divided in two. The ballots would of course all have to be counted at a central Bureau. But the first sorting and counting could be done where they were cast. The labor at the central office would be great, but not greater than is performed any day in counting or sorting letters in a large post-office."

A second instance in which the Hare scheme was applied is noted in an interesting and very able article upon "The Machinery of Politics, and Proportional Representation," published in the *American Law Review* for January, 1872. In the latter part of 1871 the New England Society of Orange, New Jersey, elected its nine directors by the preferential vote, 46 ballots being cast.

The first names on the 46 ballots being read, it appeared that the name of Mr. Bacon appeared at the head of 5 tickets; of Mr. Heald on 25; Mr. Ropes on 5; Mr. Mason on 6; and Mr. Carter on 3. Messrs. Bacon, Heald, Ropes, and Mason receiving the *quota* or over, were elected. The 20 superfluous votes for

Mr. Heald being transferred to the candidate named as next choice to that gentleman, it appeared that 12 went to Mr. Carter, 2 to Mr. Vose, 3 to Mr. Stearns, and 1 each to Messrs. Pierson, Myers, and Collamore. Mr. Carter having 3 first choice votes of his own, the 12 transferred votes gave him 15, and he was thus elected with 10 votes to spare; no other candidate on this count had the *quota*. Mr. Mason's 1 superfluous vote was then given to Mr. Hare, the next-named candidate on that ticket; and Mr. Carter's 10 superfluous votes to the next-named candidates severally named thereon, with the result on this count of still no *quota* for any candidate.

The votes of those candidates who had but 1 first choice, and consequently no prospect of securing a *quota*, were then transferred to the next choice in those single, or scattering, ballots, with the result of electing in succession Messrs. Vose, Colby, Collamore, and Stearns, making the nine directors required.

Except in these tentative elections the preferential vote has not been brought into use in the United States, nor does it seem likely that the nicety of the system will permit its adoption. In itself it insures a just representation, but in practical operation would probably be made the occasion of great dissatisfaction, unfairness, and fraud. Still the introduction of Mr. Morrison's bill into Parliament seems to infer that with all its drawbacks the scheme is regarded as practicable and desirable abroad.

CHAPTER V.

THE LIST VOTE—THE SUBSTITUTE VOTE—THE PROXY VOTE—THE NEW YORK SCHEME—OTHER PLANS—GENERAL REVIEW.

IT has generally been supposed that the List Vote was of Swiss origin, but a writer in the *American Law Review* of January, 1872, makes it clear that the idea was first worked out in the United States years ago:

"A scheme of electoral reform, almost identical with that of the Free List, was suggested in a paper read before the Philosophical Society of Philadelphia, as long ago as 1844, by Mr. Thos. Gilpin, of that city. This seems to have been the earliest attempt to find a philosophical solution for the problem of representation. After twenty years of oblivion, Mr. Fisher's independent inquiries in the same direction revived among his neighbors the memory of the earlier treatise. Mr. Gilpin's scheme is worked out with great exactness, and is almost identical in its provisions with the Geneva system of M. Naville and his associates. * * * * It is to be hoped that the Philosophical Society of Philadelphia may honor themselves and their late associate by printing among their transactions this remarkable paper, which thus, after nearly thirty years of oblivion, is found still in the front line of the most advanced thought on the subject. It was privately printed by its author, and is now excessively rare. There is a copy in the library of Harvard College, the gift of the late Isaac T. Hopper."

Ordinarily, however, the list vote, or *liste libre* (free ticket), has been known as the Swiss scheme, and credited to the Association Réformiste of Geneva. In the report of that Association, March 30, 1871, the system is thus explained: A list of candidates may be made out by any number of persons, more than a mere faction, who may see fit to associate themselves either generally or *pro hac vice* into a party, and is then to be deposited with the authorities, who will number and publish the same. Each elector has one vote, and casts his suffrage for list No. 1, No. 2, No. 3, etc., as he may see fit, indicating his preference for the candidates thereon. The total number of votes cast is divided by the number of persons to be chosen to obtain the number of votes necessary to elect a deputy, or the *quotient electoral*, and by dividing the number of votes cast for any list by this *quotient*,

the number of candidates on that list who are elected is ascertained. If we suppose there are 12 deputies to be chosen and that 12,000 votes are cast, the *quotient electoral* is 1,000, and the election, if we further suppose 4 lists in the field, may result about thus:

List No.	1,	receiving	5,000	votes,	secures	5	deputies.
" "	2,	"	4,000	"	"	4	"
" "	3,	"	2,000	"	"	2	"
" "	4,	"	1,000	"	"	1	"

This method has much to commend it. The elector is free to cast his vote as he will without much fear of losing it; each party obtains a representation proportionate to its strength; third parties are at all times possible; and any able man who has a *quota* of friends in the constituency is sure of an election. Moreover, there is no difficulty in filling a vacancy, the next man on the ticket coming in to take the seat, whereas if a member elected by the cumulative or limited vote die or resign, his place must be filled by a majority vote, and thus a Democrat may be chosen in a Republican's place, or *vice versâ*. The list vote, however, has not been reduced to practice except in Switzerland, but has latterly been coming into favorable consideration in the United States, possibly from the fact of its American origin. The writer already referred to in the *American Law Review* says:

"The Swiss, or as we may venture to call it, the Philadelphia, scheme seems to combine almost every claim to confidence in the highest degree. It secures a perfectly just share of representation to every organization that cares to come into the field; it offers every facility for the formation of new organizations, and it gives to the individual elector a large measure of freedom within the lines of the organization to which he belongs. It is also perfectly simple in theory and in fact, so as to be easily understood and easily put in practice. Its provisions, in fact, amount merely to giving every organized party as many members as it is entitled to, and allowing the members of the party to determine which candidates, from a list presented by the chiefs of the party, shall be selected for their representatives. This double election, so to speak, restricts the action of party chiefs to their legitimate sphere. They advise and recommend, but no longer dictate."

Mr. S. D. HORTON, of Cincinnati, seems to have arrived at the same conclusions, and has warmly advocated the adoption of the method in communications to the *Gazette* of that city, of Jan. 30 and Feb. 6, 1872. In the latter issue he goes into the details of his amendments, which chiefly concern the manner of counting the votes, thus:

"RULES OF A SYSTEM OF PROPORTIONAL REPRESENTATION FOR THE ELECTION OF LEGISLATIVE BODIES AND BOARDS.

"I. Each distinct list of candidates proposed, containing as many names as there are members of the deliberative body to be elected in the district, shall constitute a ticket.

"II. Each ballot must, in order to be counted, contain a sufficient indication of precedence of choice among the names on the ballot; if there be no other indication of preference, the order of names shall be taken as such indication.

"III. The offices to be filled shall be divided among the various tickets as nearly as possible in proportion to the number of ballots cast for each, excepting that in order to prevent a 'tie' whenever in a district electing an even number of members, a majority of the voters would, if the above rule were strictly followed, have the same number of offices to fill as the minority, the majority shall have the one office more than the minority.

"IV. The offices thus allotted to a ticket shall be filled by certain candidates on the ticket, according to the preferences which the voters shall have indicated among the candidates.

"V. This order of preference is determined in the following way: The candidate who is the first choice of the greatest number of voters shall have the first place on the final list; if only one office be allotted to the ticket, such candidate is elected. That one among the remaining candidates, who, on the greatest number of ballots, stands either first or second in the order of preference, shall have the second place on the final list; if the ticket elects two, he also is elected. That one of the now remaining candidates who on the greatest number of ballots stands either first, second, or third, shall have the third place; if the ticket elects three, he also is elected; and so on.

"VI. Whenever, in pursuance of the above rules, a candidate would be elected on two tickets, he shall be deemed elected on that ticket which receives the greatest number of ballots, and his place on the other ticket shall be filled by the candidate next in the order of preference.

"VII. A ballot containing a part only of the names on a known ticket shall be counted for that ticket.

"VIII. A ballot containing names, all of which are on two different known tickets, shall be counted for that ticket which receives most votes, exclusive of such ballot.

"IX. The names remaining on 'scratched' ballots shall be counted in the order of preference, neglecting the names 'scratched.'

"X. Vacancies shall be filled by the next name on the final list, arranged as above, of that party on whose ticket the officer whose office becomes vacant was elected.

"To illustrate the working of the scheme, suppose that in a district containing 360 voters there are five to elect—we make the numbers small to save space in the table given below—the Republicans nominate five candidates in fixed order, A, B, C, D, E, and proclaim this list in this order as the 'regular ticket.' The Democrats nominate their five candidates, among whom X is the most popular, but the convention does not bind itself to support any especial order of preference between them. The Young Democrats, however, are exasperated that their leader F was defeated in the regular convention; they meet and nominate their ticket of five, with F at the head, and bind themselves to use their influence to have him voted for as first choice. The Liberal Republicans, also dissatisfied with the regular nominations, put up a ticket of five without fixing upon any order among the names.

They have among their candidates E, whom the regular convention put too low on its list to make his election possible, and also B, the next best man on the regular ticket. When the votes are assorted under their five tickets, it turns out that the Republicans have polled 145, the Democrats 80, the Young Democrats 62, and the Liberals 73. Dividing 360 by 5, we have 72 as the 'quota necessary to elect.' The Republicans thus have two offices to fill, the Democrats one, the Liberals one, and as 62 is the largest fraction of the quota left, the Young Democrats have one office to fill.

"The question now is, which of the various party candidates is to fill these offices. The voters have already answered this question by their ballots, and the tally of choices kept at the polling places, and reported, of course, at the centre of the district, determines what the answer of the voters is. The count may, from its novelty, seem complicated, but under our State law as to the counting of ballots, the chief difference from the present method would be in the printed tables, in which the figures are to be written. The following table of the Liberal Republican vote will illustrate the method of ascertaining the decision of the party:

Choice.	1	2	Sum.	3	Sum.	4	Sum.	5	Zero.	Sum.
B	40	10	..	9	..	3	..	11	..	73
E	17	43	60	2	..	1	..	..	10	73
G	10	4	14	17	31	20	51	10	12	73
H	..	16	16	22	38	13	..	5	17	73
I	6	..	6	23	29	30	59	11	3	73
Zero ..	..	..	..	..	..	6	..	36	42	
Sum ...	73	73	..	73	..	73	..	73	..	

"The voters of the party have then, as above indicated, voted for their candidates in the following order: B, 1st; E, 2d; H, 3d; I, 4th; G, 5th. B is thus the first choice of the greatest number of voters. But B stands second on the regular ticket, and, in obedience to Rule VI., is elected on that ticket. The Liberal vote is therefore counted for their next best man, E, who stands either first or second on 60 ballots, and he is therefore elected.

"Had the party been strong enough to gain two offices, H would also have been elected, and so on in order. The result of the election is thus:

"Republicans, A and B; Democrats, X; Liberals, E; Young Democrats, F.

"It will be observed that the above method of counting has the advantage of presenting a check on fraud in the count. The figures of the table, added up, either in column or in line, give the same sum, which is that of the whole party vote. A clerk can run over the column in a few moments and detect an error, and so to succeed in falsifying returns it is necessary to be skilful, as well as dishonest. In the 'zero column' the 'scratches' are counted. For example, in the above table, six ballots had two names and thirty-six only one name 'scratched.' The fourth place was thus vacant on six tickets, the fifth place on thirty-six. In canvassing the ballots, the following method has some advantages: the ballots are taken from the box and assorted; all ballots belonging to one ticket are put together. These, on being filed, or fastened together at one end, form, if we have, as above, four parties, four compact bundles, or books of ballots. They may,

of course, be filed in any way practicable; sewing them together with a strong needle and cord, as is sometimes done to-day, would serve the purpose. A judge of election then reads off the names, as to-day, turning over the ballots as he might the leaves of a book. On his calling the names of first choices, a clerk makes the following count:

LIBERAL REPUBLICAN VOTE.—TALLY OF FIRST CHOICES.

	Sum.
B—IIIII IIIII IIIII IIIII IIIII IIIII IIIII IIIII . .	40
E—IIIII IIIII IIIII II	17
G—IIIII IIIII	10
H—	...
I—IIIII I.	6
Total	73

"Transferring the sums of these tallies, we have the party square as given above. For tallying fourth and fifth choices a zero column, or else a separate zero count, will be needed in which to count the 'scratched' tickets.

"It is here noteworthy that if the work of calling the names be divided, as it naturally would be, between the judges of election, the difficulty of falsifying the returns is greatly increased, If A calls the wrong names for first or third choices, it will be hard for B, when he calls for the tally of second or fourth choices, to make exactly the right transposition of names; and the 'magic square,' with its simple additions, at once detects both the fact of error and the exact locality and magnitude."

Commenting on this, the Boston *Advertiser* of February 12, 1872, says:

"The case given by Mr. Horton deals with all parties with substantial justice. But suppose that the Republicans number 214 of the 360, and the Democrats 146; that 106 of the Republicans bolt and 37 of the Democrats. Then the account would stand thus: there are 108 votes for A, B, C, D, E; 106 for B, E, G, H, I; 109 for X, W, V, U, T; and 37 for F, K, L, M, N. The regular Republican ticket elects A, with a fraction of 36; the Liberal Republicans B, with a fraction of 34; the Democrats X, with a fraction of 37; and the Young Democracy give a fraction of 37. The Democrats and Young Democracy elect X and F. Their bolt has helped them and the Republicans have injured themselves by their bolt. A minority of barely over two-fifths has a majority of the representatives. This is an extreme case, but it is not wholly beyond the bounds of probability. Mr. Horton has been so successful with other parts of the scheme that we shall hope that he will attack this also. A rule that all fractions less than two-thirds be rejected, and a new election to fill the vacancy be ordered, might meet the case. The suggestion that a fraction be assigned to the largest party would be useless, as, in the instance we have supposed, the 37 votes of the Young Democracy would be added to the 109 of the regular Democrats, and they would still get a majority representation."

As first proposed, the list vote made no provision for the indication by each elector of his preferences among the candidates

named on his ballot, the rule being that if List No. 2, for instance, received three *quotas* of votes, the first three candidates therein were to be the deputies, and hence, when it was afterward proposed in 1870 by M. Borély, of Nîmes, that each elector should indicate his preference for himself, the amendment was treated as a distinct method, and called the vote by personal representation, or the *quotient electoral.* This distinction is no longer maintained; the list vote in its present form not only allowing the voter to choose his own list, but to indicate the order of his preference among the candidates thereon. Each ballot is counted for but one candidate, the first choice thereon, until that candidate obtains a *quota;* then for the next, and so on, the names of elected candidates being stricken from the ballots as fast as *quotas* appear.

The Substitute Vote.

The Substitute Vote is of American origin, having been proposed in 1863 by Mr. J. Francis Fisher, of Philadelphia, a gentleman who has published several works on legislative and municipal reform, and is intended to meet the case of candidates who "run ahead of their ticket." There being 5 persons to elect in a constituency of 10,000, each representative should have 2,000 votes behind him, but it may, and very often does, occur that one very popular candidate may receive over half of all the votes polled, leaving the rest to be divided up among the other candidates. The poll may stand, A, 5,500; B, 2,000; C, 1,200; D, 600; E, 400, and scattering, 300. A and B are elect, having received the *quota*, but there are three representatives lacking, unless we allow such votes as a third or a fourth of a *quota* to be as potent as a *quota.* This being unfair, the question of how the delegation is to be completed comes up, and Mr. Fisher proposes that all votes over and under a *quota* be cast, by those receiving them, in a new election. Thus A has 3,500 votes over a *quota*, C falls short of a *quota*, having but

1,200 votes, D has but 600, E 400, and there are scattering 300. These votes we will suppose cast thus:

	H.	I.	J.	K.
A gives	2,000	500	800	200
C "	..	1,200	..	..
D "	..	300	300	..
E "	..	..	400	..
Scattering	10	20	250	20
	2,010	2,020	1,750	220

H, I, and J are therefore elected, and the delegation made complete. Of his system, Mr. Fisher says:

"No more votes would be required for or given to one candidate than the number making the complement of his constituency. Others which might be *offered* could be passed over by the advice of the member elect, or his committee of canvass, to some other candidate representing similar interests or principles. As votes would coalesce in this manner, it is presumed that the greatest number of places in the legislative body would be filled by a totality vote. The few seats not receiving the full complement might be filled by those candidates whose number of votes exceeds two-thirds of what constitutes a perfect constituency [or *quota*] and if, in consequence of the great number of candidates, there should still be a seat unfilled, a new election might be declared, at which all the voting tickets not previously effective might be again used."

The idea of the substitute vote has attained some popularity both in the United States and abroad, it being said that if you can trust a man to vote for you as your representative in the legislature, you can trust him to transfer your vote for him to some other candidate if it will not profit him. Moreover, in the elections of a President, through the mediation of electors and of United States Senators by the State Legislature, the substitute vote is already a part of our political system.

In the Illinois State Convention, January 12, 1870, Mr. Benjamin offered a resolution looking to the adoption of this method, thus:

"*Resolved*, That the Committee on Electoral Reform be instructed to inquire into the expediency of incorporating into the Constitution provisions substantially as follows: 1st, Any candidate who shall receive a majority of the votes cast in his district shall be entitled to a certificate of election. 2d, Any candidate who shall receive less than a majority of the votes cast in his district may, within ——— days after the election, file in the office of the Secretary of State a transfer of the votes cast for him, either collect-

ively to any other candidate, or distributively to any other two candidates, in the State, at his option. *Provided* that no transfer shall be made to any candidate having received less than one-fifth the votes cast in his own district. The Secretary of State shall ascertain the average of the votes cast for the candidates elected by majorities, and shall issue certificates of election to every candidate who shall have received of direct or transferred votes a number equal to such average. If at any election candidates shall be elected by majorities in less than one-fifth of the districts, then the candidates who shall have received the greatest number of votes within their respective districts shall be entitled to certificates of election, and there shall be no transfer of any votes cast at that election."

In explanation of his resolution, Mr. Benjamin said:

"The first section provides for majority representation; the second for minority representation, and the third for the present system of plurality representation, upon a contingency not likely to arise in practice, but still possible. This plan can be applied to the election of representatives, whatever may be the number of districts. If the State should be divided into one hundred districts, we could not have less than one hundred members, and must have less than two hundred. Upon a partial examination, I find that hitherto the minorities throughout the State have constituted in the aggregate somewhat over one-third of the voters. And therefore I conclude that under this plan we would have about one hundred and sixty-five members, if there should be one hundred districts. Any person receiving a majority of the votes cast in his district is elected. The average of the votes cast for those who are elected by majorities, is ascertained by the Secretary of State from the returns in his office. Any defeated candidate who is so prominent and has the confidence of his own district to such a degree as to receive at least one-fifth of the votes cast in his district, and who, in addition to this, receives from other defeated candidates of his own party anywhere in the State, transferred votes which, in connection with the votes cast direct for him, amount to the average of the votes given to those elected by majorities, will be entitled to a certificate of election from the Secretary of State. * * * * The second section adopts a principle similar to the one in accordance with which we elect United States Senators. We intrust to the members of the Legislature the selection of Senators to represent us and our political sentiments in that important body—the Senate of the United States. And in like manner, under the plan proposed by this resolution, minorities will intrust to their candidates the selection of men to represent them and their political principles, their industrial, or other interests in the House of Representatives—the popular branch of our State Legislature. There is no danger that the minority candidates of one party will transfer the votes of their constituency to the candidates of another party, whose political principles or particular interests are antagonistic. The majority representatives represent both locality and political sentiments. The minority representatives would represent, in a small measure, locality, but mostly political sentiments. Under this plan, the strong men of a party throughout the State may be elected, although living in districts where their party is in a minority."

To put the transferal of votes contemplated by the substitute vote in the hands of the voter himself, Mr. Walter Bailey, of London, proposes, in his "Scheme for Proportional Repre-

sentation," that each candidate announce before the election what he proposes to do with the votes he cannot use himself, publishing a list of names, with his own at the head; and that after the election, the superfluous votes (of those candidates whose total number of votes exceed the *quota*), and the insufficient votes (the votes of those candidates whose total falls below the *quota*), shall be transferred to the names next in order upon the lists which the candidates have published.

Somewhat in this form the substitute vote has been adopted in the act of the Pennsylvania Legislature, providing for the election of delegates to a Convention to revise the Constitution of that State. The delegates are to be chosen by the limited vote, and in case of vacancy in the membership of the body, the act thus provides:

"If such vacancy shall be of a member at large of the convention, those members at large who shall have been voted for by the same voters or by a majority of the same voters, who shall have voted for and elected the member whose place is to be filled, shall fill such vacancy. If such vacancy shall be of a district or city member of the convention, those members at large of the convention who shall have been voted for by the same or by a majority of the same voters who shall have voted for such district or city member, shall fill such vacancy. In either case the appointment to fill a vacancy shall be made by the members at large aforesaid, or by a majority of them, in writing, and all such written appointments shall be filed among the convention records."

The Proxy Vote.

The proxy vote, though sometimes treated as a distinct method, is really but a part of Mr. Fisher's general system of the substitute vote, and respects the action to be taken prior to the first, or popular election, the substitute vote itself coming into play after that election and with the filling up of the delegation by the candidates themselves. The outlines of the system, as given by Mr. Fisher in his work on "The Degradation of our Representative System and its Reform," are about as follow:

"The secret vote or ballot must be abandoned. The division of States into Districts for election to the presidential or legislative offices, must also be abandoned; a Registrar-General must be appointed in every State, with deputies. The Registrars should prepare a list of all the qualified voters in the State. Six months before each general election, there should be a publication of all the qualified voters on record. After the publication, two or

three months should be given for additions or corrections. The Registrar's books being closed, and the whole number of qualified voters ascertained, the numerical constituency of each member of the National or State Legislature may be determined by using as a divisor the number of places to be filled. But it is not necessary to count the whole number of qualified voters; the largest number of votes given in any previous election, with a proportional addition for the estimated increase in population, may be taken as the aggregate; the quotient produced by the number of representatives as a divisor, may be accepted as the whole constituency of each member, to be procured by the candidate in any part of the State. Immediately after closing the books of registry, a ticket should be furnished from the Registrar's office to every qualified voter, stating his right to vote for each member of Congress or State Legislature, or any other elective officer, a separate ticket for each office. The ticket might have some such form as the following: 'John Doe is authorized to vote for member of Congress (or other office) of which this certificate ticket is his certificate. An assignment by writing on the back is necessary to convey the vote to the member of his choice.'

"Signed by the Registrar."

"The ticket thus placed in the hands of an elector is not to be used at an ordinary polling-place, but regularly assigned to the representative before a notary public, or some similar officer; the number and names being entered on a record kept for that purpose, and the tickets so assigned are to be handed to the member elect as his certificate, to be presented and counted at the proper office of the legislative body to which he is elected. No more votes would be required for or given to one candidate than the number making the complement of his constituency. Others which might be *offered*, could be passed over by the advice of the member elect, or his committee of canvass, to some other candidate representing similar interests or principles. As votes would coalesce in this manner, it is presumed that the greatest number of places in the legislative body would be filled by a totality vote. The few seats now receiving the full complement might be filled by those candidates whose number of votes exceeds two-thirds of what constitutes a perfect constituency; and if, in fine, in consequence of the great number of candidates there should still be a seat unfilled, a new election might be declared, at which all the voting tickets not previously effective might be again used."

In advocacy of an adaptation of his plan to the making of nominations, Mr. Fisher says:

"It is necessary to make the party machinery amenable to public law, so that fraud and perjury in the party nominations would be as susceptible of investigation, and as liable to punishment, as those which might be perpetrated at the polls. Unless we can obtain this, all our well concocted plans of checks and balances and minority representation will be fruitless."

As one instrumentality to this end, he suggests:

"That a statute empower every fifty electors, previously ascertained, to appoint one representative, who may or may not be of their number, to meet in a convention with power or authorization to act for his constituents, being signed by all of them and certified by a notary public. Other representatives of a similar number, similarly certified, would unite with them according to their affinities: and whenever a number of deputies be combined to represent a sixth part of the whole body of electors for municipal offices,

they may be empowered to organize a separate meeting for nominations. As it is believed that there never have, in any place, been more than four parties engaged in a single election, it is supposed that no body of citizens, comprising less than the sixth of the whole, would at any time organize into a separate party. Of course the most numerous parties would unite more delegates in proportion to their number."

The New York Scheme.

It will be observed that Mr. Fisher's plan contemplates an election by the giving of powers of attorney to some candidate to represent the voters, a *quota* of such powers being necessary to the success of any candidate. If there are 100,000 voters, and 100 persons to be chosen, then a candidate must secure 1,000 proxies in order to be elected. Where proxies in excess of this *quota* are given him, Mr. Fisher's plan proposes that they "be passed over by the advice of the member elect, or his committee of canvass, to some other candidate representing similar interests or principles." This makes the person so chosen the choice not of the voters giving the proxies, but of the person already elected. The *quota* being 1,000 proxies, A receives, say, 2,000 proxies, or 1,000 in excess. These he passes over to B; so that A elects B with proxies never given to him at all by the people, but to an entirely different person, to wit, A himself. To do away with what is regarded by its proposers as such an anomaly as a man sitting as a representative of a constituency which never gave him a vote, the New York Scheme, which is identical up to this point with Mr. Fisher's plan, proposes that A cast as many votes in the representative body as he receives proxy *quotas*. If he receive five *quotas*, he casts 5 votes; if two, 2: if ten, 10. This plan was pressed upon the attention of the New York Constitutional Convention in a memorial presented on the 6th of August, 1867, to that body by the Personal Representation Society of New York; and from that memorial, as prepared at the request, and printed under the auspices, of the Society by Mr. Simon Sterne, the subjoined statement is taken:

"They all [Hare's, Fisher's, and Larned's plans] introduce in the first place the inequality of giving to persons having less than a *quota* of votes the same voice in legislation as to him who, by reason of his popularity, might, if permitted by the exigencies of their systems, have obtained a dozen *quotas*; and, secondly, the voter's vote really does not go where he

wanted it to be effective, in case the man who is his first choice is elected before his voting-paper, under Hare's plan, is counted—or gathered, as under Mr. Fisher's plan. Hare tells us that the voter's condition is bettered by reason of his first choice being already elected before his voting-paper is counted, as the man whom he wants specially in the legislative chamber or halls of Congress is already elected, and he has a chance to add to the quota of some other friend of his political opinions. This is a specious statement of the case. In the first place, the voter may not have full confidence in any other man than in him whom he has placed at the head of his ticket, and may think, justly or mistakenly, that the success of any other person on the list of candidates would simply tend to hinder and clog the operations of the member whom he desires to have in the legislative body, in which event he is partially disfranchised; and, secondly, the greater part of the people, devoted as they are to their respective occupations, cannot and will not devote the time necessary to canvass the merits of all the candidates who present themselves for the suffrages of their fellow-citizens. Among the educated, the real choices would be exhausted on the second or third line of the voting-paper; and the rest of the names of candidates, if placed there at all, would be there by the mere dictates of chance or caprice. It is to be feared that with the great mass the case will stand still worse: the first choice would exhaust their volition, and the other and subsequent choices would be placed upon the ticket at the dictate of a demagogue or parties.

"The obstacles in the way of the people meeting in assembly, and originating their own measures of legislation and government, are, as before observed, their number and their distance from each other. They must therefore deliberate and *cast their votes* through their accredited agents.

"These agents should not be too numerous, and you must therefore put a minimum limit to the number of powers of attorney that any candidate must hold before he is entitled to a seat in the legislative body.

"Such provisions would prevent too numerous a body. The State of New York has about 800,000 voters. If it be desirable to have no more than the number of members which compose the present assembly, by dividing this number of votes by 128, the number of seats, you have a quotient of a trifle over 6,000 votes necessary to elect a representative as the minimum number of proxies or powers of attorney (votes) necessary to entitle a candidate to a seat. In using the words proxies, or powers of attorney, we do not mean that the candidate shall actually procure a certain number of powers of attorney made out in due form, but to express our meaning of the legal and logical significance of a vote, each vote being regarded as a power of attorney. Every person receiving at any election for members of assembly a larger number of votes than the minimum quota fixed by law, should be deemed elected, and each member cast in the legislative body upon every measure or act coming to a vote, the number of ballots cast for him, and which he represents, be they six thousand or twenty thousand.

"To obviate the objection, if it be thought to have any force, that the plan proposed might result in giving us too few members of the assembly by the concentration of a great number of votes upon a few popular men, the State might be divided into assembly districts sufficiently large to give the fullest expression to the then prevalent popular opinions, and restrict the choice of voters to candidates residing in such districts. The people then, in point of fact, would upon every measure vote through their agents, the representative, as though they were owners of shares of stock in a railroad or mining corporation, and with like effect. When the conservative tendency of our minds which induces us to reject an idea because it is new, is overcome, the objections which rise to the surface on hearing for the first time the idea of

personal in place of majority representation, melt away, and the few practical difficulties in the way of its adoption can be overcome by machinery much more simple than that required to carry out our present illogical system.

"*Objection No.* 1 would perhaps sound as follows:

"Under this plan one member may have in the legislative chambers ten times as much power as some other member.

"*Answer.* Of course. And why should he not have, if he represents ten times more of the power-giving element than the others?

"*Objection No.* 2. Under this system the legislative body would not consist of any fixed number; it may be one hundred and twenty-eight this year and but twenty the next.

"*Answer.* Why should it consist of a fixed number after you have provided against the only dangers of having your representative body too large for business, or too small for deliberative purposes by your minimum quota of votes which each member is to represent, and the division of the State into large electoral districts. If the people of the State of New York desire to be represented, and believe that they are best represented by having but twenty representatives, to cast all their votes upon the acts they originate, why should the people not be gratified? That contingency is, however, not likely to take place. A man must be wonderfully popular to be able to control one-twentieth of all the votes of the State in opposition to the competition of all those candidates who would be satisfied with just sufficient votes to entitle them to seats in the assembly. If, however, it will be thought advisable always to have an assembly with a fixed number of members, then it may be provided that such of the number necessary to fill your legislative body, having the highest number of votes up to the *quota*, shall be permitted to hold seats in the legislative body, casting, however, only the number of votes which they respectively represent, and no more.

"As, under this plan, there would still be a small fraction of voters unprovided for by representation, by reason of their votes being scattered upon such candidates as have not even received approximate minimum, quotas, such could easily, without much injustice, be left unprovided for and unrepresented, or what to our mind would be more correct, as we do not believe in disfranchising a man because he has not succeeded in electing his candidate to office, it might be provided, that every citizen having voted for a person who is not elected, and who, therefore, cannot cast the voters' vote on public questions in the legislature, shall have the right to transfer his vote, within one week after the election, to any one of the successful candidates. In this way, again, every vote in the community would actually be represented in the representative body. Of course this right to transfer must be reserved only for those who voted for unsuccessful candidates, and thereby run the risk of becoming disfranchised; or, the unsuccessful candidates might be constituted into an electoral body to meet within a short period after the election, and by some public and fixed manner, either transfer their votes to the successful candidates, or add to each other's *quota* until some of their number have sufficient votes to entitle them to seats."

The Convention took no action on this proposition, though the general idea of the memorial, that there should be by some process a juster representation of the constituent in the legislative body, received a warm support, and was, to a certain extent, adopted. The gentlemen under whose auspices the New York

scheme was presented were Messrs. Robert B. Minturn, David Dudley Field, Edward Cooper, Francis George Shaw, Sydney Howard Gay, Simon Sterne, J. Francis Fisher, David G. Croly, Mahlon D. Sands, and Alfred Pell, Jr. The very novel character of this proposition has led to considerable discussion, but no legislative action has ever been taken upon it beyond the introduction into the Illinois State Convention, Jan. 10, 1870, of the following, by Mr. Eldridge:

"*Resolved*, That members of the House of Representatives should be elected by single districts; that each county should be entitled to at least one member in the House of Representatives, and every member of the House of Representatives should be entitled to cast one vote upon all questions upon which he may be called upon to vote in his representative capacity, for every 1,000 inhabitants in his district, and one-fourth of one vote for every additional 250 inhabitants and fractional part of that number."

The Double Vote Plan.

Under the French electoral system, as in some of the United States, a candidate to secure election must receive an absolute majority of all the votes cast. If there is no such majority, a second election is had to secure one. Taking this as his guiding idea, Baron de Layze, in his "Les Minorités et le Suffrage Universel," published in Paris in 1868, proposes that the whole number of persons entitled to vote be divided by the number of representatives to be chosen to obtain the *quota*—the usual method of ascertaining the *quota* being to divide the actual vote cast by the number of persons to be chosen—and that each person receiving the *quota* be declared elected whether such *quota* be obtained at a first or any succeeding election. If, after several successive elections, it appears that there are yet members to be chosen, and the popular temper does not admit of any more candidates receiving full *quotas*, then those receiving the number of votes nearest thereto are to be considered elected until the delegation is complete. A somewhat similar plan is proposed in a pamphlet published in Paris in the same year as the Baron's work, by Maria Chenu. By this a tentative election is to be held to ascertain the strength of parties; then the representation is to be apportioned in proportion thereto; and finally each party is to vote within itself for the number of members allotted it, the majority of each party

carrying the whole representation of the party. Thus there are 49,000 voters in a constituency, and 7 members are to be elected therein. At the preliminary election the votes stand: Republican, 28,000; Bonapartist, 14,000; Legitimist, 7,000. Then the apportionment of members is 4 to the Republicans; 2 to the Bonapartists, and 1 to the Legitimists. At the second election the vote stands:

Republican.		Bonapartist.		Legitimist.	
A	8,000	K	4,000	R	3,000
B	5,000	L	3,000	S	2,000
C	3,600	M	2,500	T	1,500
D	2,500	N	3,500	U	500
E	1,500	O	500		
F	1,000	P	350		
G	500	Q	150		
H	3,400				
I	2,500				
Elected, A., B., C., H.		K., N.		R.	

Mr. Larned's Plan.

The plan of Minority Representation proposed by Mr. J. W. Larned, formerly editor of the Buffalo, N. Y., *Express*, is a combination of the Hare and Fisher schemes, and is thus in substance explained by its author in a letter to Hon. Horace Greeley and Hon. Jas. Brooks:

"Whenever fifty or more registered voters in each of, at least, half the counties in the State shall sign a memorial to the Governor setting forth their desire to constitute a new and distinct political party, he shall announce the official recognition of such party. At every general election, there shall be elected in each district, by each political party, a functionary to be called the Caucus Commissioner. Immediately after the Governor's designation of a day for the holding of caucus meetings, the caucus commissioners in each district shall appoint and publish the places.

"Every caucus meeting shall vote by ballot for the election of three delegates to the State convention of the party in whose interest it is held.

"At the State convention of each party, there shall be put in nomination candidates for election as representatives in the State Legislature in number exceeding by not more than half the number of such representatives to be elected, and the list of nominations shall be posted at each polling-place throughout the State, on the day of election: but electors shall not

be restricted in their choice to the names upon the lists. For the election of representatives in the Legislature, each elector may cast three ballots, one of which shall be printed or written upon its back: 'First Choice,' and the others shall have severally so printed or written, 'Second Choice,' and 'Third Choice,' and each ballot shall contain one name only, which shall be written and not printed. The inspectors of election in each election district shall have three ballot-boxes marked First, Second, Third Choice. The State canvassers shall canvass the votes cast as 'First Choice,' and ascertain their number, which shall be divided by the number of representatives to be elected, and the quotient shall be the number of votes required to elect any representative. All persons who have received the number of 'First Choice' votes shall be members of the Legislature; and, if the number is not equal to the number of representatives required to be elected, then the board of canvassers shall proceed to canvass the returns of the votes cast as 'Second Choice,' and shall ascertain what persons who have received 'First Choice' votes, but not the required number, have received sufficient 'Second Choice' votes, added to the first, to make the required number of votes, and those persons, or so many of them (taken in the order of precedence determined by the number of votes each has received) as will complete the Legislature, shall be declared representatives elect. If the required number is still incomplete, then those persons who have received 'Second Choice' votes alone, to the number that is required, shall be declared representatives elect; and if those persons do not complete the Legislature, then the board of canvassers shall proceed to canvass the votes cast as 'Third Choice,' and to ascertain the persons (1) who have received the required number of votes as first, second, and third choice votes together; (2) who have received that number as second and third choice votes alone to the requisite number; and so many of those persons, in the order prescribed above, as are necessary to complete the number of representatives required to be elected, shall be declared representatives elect."

There have been some other methods proposed, as that by the Luzerne, Pa., *Union*, thus:

"To determine the quota there should be a yearly registration made of all voters three months before the election, so that the people could know how many should act together to secure a delegate. Then the political organizations, whether two or many, should make an enrolment of all their voters, which should be sent to the Central Executive Committee of the State, at least a month before the election, who could apportion the State and inform the local Committees, and they should, at once, have the nominations made, either in convention or by a primary election in the respective districts. There could be no districts appointed by law. The nominations being properly made we could vote as we do now in the counties, and on the returns being sent to the State Capitol, it could be determined whether there was an election, and a new one ordered where there was a failure."

—and another by a bill brought into the State Senate of California by Mr. Finney in the latter part of 1871, under which those who might desire a local or municipal office were required to register their names with the Clerk of their county, while those who aspired to State offices, such as those of Governor or Treasurer, or seats in the Legislature or in Congress, were to go through

the same form with the Secretary of State. The lists having been made up, a general primary election was to be held throughout the State, for the nomination by the people, by the simple agency of the ballot-box, of all officers, city, county, State, and National. The three persons running for any office, who might receive the highest number of votes, were to be considered the nominees; these nominees were to be voted for at the general and final election, and the individual who received the highest number of votes was to get the office.

General Review.

From the substance of the foregoing chapters the strength and the weakness of the case presented for Minority Representation can be seen. The great argument against the proposed change is, that it does away with that responsibility which now attaches to the dominant party. As we now vote, the A party and the B party contend before the people, and the verdict of the people is that the A party, say, shall hold the reins of power. If there is an improper administration it is well known who is to blame, and at the next election the A party can be put out and the B party in. Should, however, the responsibility for misgovernment be so divided that it cannot be distinctly fixed, a new election affords no means of remedy, the evil being known, but not the author of the evil. Subsidiary to this objection is another to the effect that as there must be a definitive vote somewhere by which the majority shall have its way, a representation of the minority but carries into the law-making body, or field for action, the same discussions which have been already decided before the people. A certain question of policy is debated before the electoral body. Able men argue on opposite sides, just as opposing advocates harangue a jury, and the voters render their verdict at the polls. All that then remains is for the legislators elected to proceed to put that verdict into force, and not to enter on a rehearing of the whole case, when it is perfectly well known that after this new discussion the verdict must be just what it was before. Still another objection is, that some forms of Minority Representation, notoriously the limited vote as in use for certain

Parliamentary elections, disfranchise the elector as effectually as the present system. It is the prerogative of the elector to have a voice in the choice of all his rulers, but if there are five judges, say, to be elected and no voter can vote for more than three, then, *quoad* the restriction, his liberty of choice is circumscribed. Yet another objection is, that as disproportionate a representation may be obtained under Minority Representation as under the existing system. It is unfair that where there are 3,000 A votes and 2,000 B, with 3 members to be elected, that the A votes should elect all; but if there are 2,000 A voters and 1,200 B voters, with two members to be elected by the *cumulative vote*—by which each elector will have two votes—the poll may stand: for C, 3,000 A votes; for D, 1,000 A votes; for E, 2,400 B votes, and C and E are elected, or with but a trifle over one-third of the vote, the B party obtains one-half the representation. It is inferior electorally to its opponent, but representatively of equal strength. Again, unless the majority party know its own strength and divide it out among its candidates skilfully, it may not only lose its proper share of the representation, but be actually thrown into a minority. Thus in an English school board election one candidate of the majority party was so popular as to engross almost the entire vote of that party, whereby the minority party, which more evenly distributed its votes, succeeded in electing a majority of the members. Still other objections to Minority Representation are the complexity and novelty of its schemes, and the many openings its processes present for chicanery, deceit, and fraud.

Considerable as are these objections, there are some cogent reasons in favor of Minority Representation. One of great weight is, that its adoption would bring into and keep in public life, able and powerful men who have neither the ability nor disposition to win political success in the ordinary party way. Independent men will not bargain with party directors to act this way or that in return for their election, and are, consequently, overslaughed in favor of the supple and serviceable. Scholarly men, also, are at a discount; the electors who would be happy to vote for them, and could elect them if allowed so to vote, being ordinarily so scattered about, a few in this district

and a few in that, that their support is virtually forbidden. Few men, of course, of this stamp could be chosen, even under the most unrestricted system, but the all but vital necessity of *some* in public life is self-apparent. One keenly logical man may set a whole deliberative assembly right about a fallacy; one cold, unimpassioned intellect, such as cannot win the plaudits of the populace, may restrain the full tide of resentment and momentary overpoise of judgment which threatens to sway a Legislature or a Congress out of its good sense and propriety; one deeply read member may adduce, just at the critical moment, a law or a precedent of the utmost importance to great interests about to be adversely resolved. Individuality is our great public need, and as the present electoral system rules all men down to the dull level of party, a breaking of the shackles by some form of Minority Representation will permit self-consciousness in public life to have its proper assertion. As to the majority ruling, it is a shrewd remark of Napoleon III., in his Life of Cæsar, that "A State is often enfeebled by an exaggeration of the principles on which it is based." That the "majority must rule" is the principle, but that the minority should be unheard and unheeded is the exaggeration which enfeebles the State. Beyond the hearing which Minority Representation secures the weaker party, it affords such a division of power in the law-making body as, under our peculiar polity, is often effectual for the public good. Throughout the whole of American polity, State and Federal, there runs a *quasi* recognition of the minority, and a half-spoken utterance that the majority should not always under all circumstances rule. When the faith of the United States is to be pledged to a treaty, it is not a majority of the Senators which suffices: two-thirds of those present must concur. No bare majority, but a two-thirds, is competent to impeach an unfaithful public officer or override an executive veto. From the greatest requisition that three-fourths, and not one over a half, of the States must ratify in order to validate an amendment to the Constitution down to the least, that two-thirds of the village must vote "aye" on an issue of town-pump bonds, the idea of something more than a majority being wise and prudent pervades the American governmental system. With this reliance in all cases of

moment not upon the majority alone nor the minority alone, but upon the majority *and* the minority, does not our very system of government seem to argue in favor of proportional representation—that a mere majority party on the popular vote may not be a two-thirds party in legislative halls, and so utterly nullify the restraining influence of that opposition on which both Federal and State constitutions *in arduis rebus* rely?

Lastly, it may be said for Minority or Proportional Representation that it has been adopted as a rule wherever it has been tried as an experiment. The preferential vote was first ordered into use in Denmark by a royal decree, but some years afterward the Legislative Assembly of the kingdom freely adopted it from a persuasion of its excellence, and subsequently thereto the Danish constitution was amended so as to provide that "elections of members of the Landsthing shall be made according to the system of proportional representation, as regulated by law." In England the limited vote was applied to Parliamentary elections, in the three-cornered constituencies in 1868, and in 1870 a proposition to do away with that method was voted down, and the plan re-affirmed as having been vindicated in practice. In 1867, a proposition to use the cumulative vote was voted down in the House of Commons, three to one; in 1870, that same proposition was carried; and in 1871, after elections had been held under it, a motion to do away with it in future was negatived without a division. In the State of New York the limited vote was applied to the election of delegates at large to the Constitutional Convention of 1867, and of all the amendments proposed by that convention the only one ratified by the popular voice was that applying the same method of election to the choice of a Court of Appeals. In 1872, the cumulative vote was applied to the municipal elections of New York City, by a heavy vote in the Legislature; and though the measure was vetoed by the Governor, that defeat must be charged to other considerations than hostility to Proportional Representation, his Excellency having in his annual messages of 1869 and 1872 urged that kind of representation as desirable. In Pennsylvania the cumulative vote was first applied to the Bloomsburg town elections, thence to all town elections throughout the State; and lastly Minority

Representation by another method, the limited vote, was provided for by law in the election of a convention to revise the State Constitution. Results like these—for we will not here speak of the adoption of the cumulative vote in Illinois, West Virginia, North Carolina, and Utah, the municipal election in Wilmington, May 6, 1872, being the only instance of a practical operation of any of these methods outside of those which have been mentioned—seem to indicate that Proportional Representation has been found to stand actual wear and tear, and beyond doubt it is the tendency of the times in the United States and in Europe to give it a yet more extended trial. Should the final verdict be favorable, the second great step in the history of popular government will have been taken. The first was the substitution of a sedate council of ten representatives for a law-debating mob of a thousand citizens gathered hap-hazard in the market-place; and the second is, that behind every one of the ten councilmen shall stand one-tenth of the people.

APPENDIX.

GOVERNOR HOFFMAN'S VETO OF THE CUMULATIVE VOTE.

EXECUTIVE CHAMBER, ALBANY, April 30, 1872.

To the Assembly: I return, without approval, Assembly bill No. 118, entitled "An act to reorganize the local government of the City of New York."

The bill provides a new charter for the City of New York, the main features of which are these: One Board of 45 Aldermen, elected, nine in each Senate District, by a novel method called the cumulative vote, under which one man may vote nine times for one candidate, and whereby a minority can elect its candidate or candidates against the will of the majority in the district; this Board of Aldermen to appoint [by the same vote] four out of the five heads which are given to each of the administrative departments.

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The remedy which is relied on against the evils of misgovernment under this charter, is the cumulative system of voting, which it introduces in order to secure fuller representation of the minority. It is claimed that this will result not only in a better class of representatives, but in greater power, on the part of the minority, to restrain the majority. Nine Aldermen are to be elected in each district, and every elector is authorized, instead of voting once for each of nine candidates, to cast, if he chooses so to do, nine votes for any one candidate, or to cast three votes each for any three candidates, and so on. This plan seeks to let the party which is in a minority in any political subdivision put into office its candidate, in spite of the opposition of the political majority. Experiments are now being tried in one or two of the other States, of this cumulative method of voting as to some of their local elections; but these have been inaugurated so recently that they afford us no guide to sound judgment derived from actual practice and experience. It is proposed by this bill, that we shall try the experiment in the chief city of the continent, with its vast and complicated interests exposed to great injury if this new theory prove to be a failure. A city of 1,000,000 inhabitants is not the place for trying experiments in government, especially an experiment which many of the most thoughtful of our people believe to be visionary, impracticable, and unconstitutional. It would be much wiser for us to await the results of the trials now going on elsewhere. This would not be the first time that a scheme to allow the minority to put men into office, in spite of the opposition of the majority, has been tried in this State. For many years the Board of Supervisors in New York was elected upon this principle. In that instance the minority were allowed, practically, to choose just half the Board. This experiment, warmly and earnestly advocated at its introduction as a valuable improvement, resulted, as all admit now, in a

disastrous failure, and was abandoned with general consent. There is this difference between that instance and the method now proposed—that there the minority was secured an equal share of power, while here it is expected they will obtain only a share proportioned to their actual numbers.

A very serious question arises whether this method of voting is in conformity with the provisions of the Constitution. Many of the ablest lawyers of the State have not hesitated to express their convictions that it must be held to be unconstitutional. It is said, and with great force, that the election, as regulated by this charter, is not an election in the sense in which that word was understood at the time the Constitution was made, and in the sense that it has always been understood among us. An election is the choice of a public officer by his receiving a larger number of votes than any other candidate in the district entitled to fill the office, all the electors being entitled to vote once at such election for a candidate for the place to be filled. It is suggested also that the Constitution guarantees that all electors shall be entitled to vote for all officers who are to be elected by the people, and that if any elector exercises his right to vote once for each of the nine Aldermen to be chosen for his district, his single vote as to any one of the candidates cannot be overridden by one of his neighbors voting nine times for some one man for the same place without an infraction of his equal right of suffrage as an elector under the Constitution.

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The fundamental principle of our Government, familiar to the people, is that elective officers shall be chosen by a majority of the votes of the people entitled to take part in the choice. In all questions submitted to the people the majority decides. When any other principle is sought to be introduced, a revolutionary change of great magnitude is proposed, which ought not to be tried under the sanction of an act of the Legislature only; if so great a change is to be made at all, it should be done only with the careful deliberation which pertains to revisions of the Constitution. Independent of the constitutional question is that of the expediency of this change in the method of choosing representatives. I am not disposed to take the ground that some form of minority representation may not prove to be an improvement. This has, nowhere, been tried long enough to prove anything.

In all free governments the people divide themselves into two great parties. This tendency is so universal that it is not statesmanship to ignore it. Enactments will not overcome it. It is a natural, useful, and wholesome division; it insures a large body of men among the people interested in and intent upon fault-finding with the party in power, and struggling, by means of exposure of their errors, to bring over to the side of the minority enough of the electors to convert it into a majority, and so to take over the government. In politics, as in other things, it is agitation which purifies. Under this proposed new system of voting, the minority carry in their candidates without effort. The majority do the same. In a district where it is known that the political majority usually casts about two-thirds of the whole vote, there being nine Aldermen to be elected, the caucus or nominating convention of the political majority will naturally concentrate all their votes upon six candidates; the caucus of the minority will concentrate on three. There will be no actual contest before the people. The decrees of the party caucuses will be absolute. Neither side will be in fear, lest, by putting forward unfit candidates, it may lose the election. For the two parties will be acting at the polls not against each other, but independent each of the other. This condition of things, where the decrees of the party caucuses on both sides are final, naturally gives rise to secret combinations between the leaders on both sides for an agreed-upon division of power, against

which combinations the mass of the voters might, under this system, struggle in vain. It is true there is an opportunity for a combination in favor of one or two candidates of independent voters, who may be regardless of party associations. But when the power of the regular party organization is considered, will not this influence of combinations of independent voters make itself felt to a very limited extent, and very rarely? Will it be equal to the power which voters, disposed to disregard their party associations on any occasion, can now exert, by temporarily voting with the opposing party, by way of rebuke to their own?

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It may be a fatal mistake for us to be over-confident that the effect of this method of voting will be merely to add to the influence and power in politics of the more unselfish and more virtuous among the electors. The professional politicians may use it more skilfully and effectually than others, and it may intrench them in power beyond the reach of the popular majority or of popular condemnation. This system must tend to increase, very largely, the power in politics of men who have a personal following, in the shape of clubs and associations, formed to promote the success of one man in local politics. The weight of a club of this kind will be increased ninefold, a club of 1,000 wielding 9,000 votes. Nor is it to be overlooked that this cumulative method of voting confers a higher money value on the ballot of any man who is corrupt enough to sell it. He can make his vote worth, to any one candidate, nine times as much as it is now. The inducement to pay, and the inducement to take bribes will both be greater than now. The Legislature must itself have looked upon this method of voting as nothing better than an experiment; if it had been satisfied of its merits and had had confidence in its working well, it would have applied the principle generally, wherever it could be applied, to local elections at least throughout the State.

It is right that the minority should be represented in all public deliberative bodies; and the American system of government makes provision for its representation. Every political subdivision sends a representative of its own choice to the general representative body, Congressional Districts to Congress, Assembly Districts to the Assembly, towns to the Boards of Supervisors, wards to village and city Councils, and thus the minority in the State at large, being nevertheless the majority in many of the political subdivisions of the State, is enabled to secure its approximate share in the public councils.

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I have dwelt at so much length upon this question of minority representation, because it is the distinguishing feature of the charter, both in the election of the legislative branch of the city government and in the choice by it of heads of executive departments; and this feature its advocates claim as its chief merit.

The bill does not limit itself in applying the minority doctrine, so-called, to the election of representatives of the people in the public councils. It proposes to give the minority of the members of the Common Council the same power of selecting, independent of the majority in that body, a portion of the men who are to administer the government of the city in its various departments.

THE RIGHTS OF THE MAJORITY.

The minority ought to be represented as fully as possible in proportion to its numbers in the public councils. But the minority has not the right to govern. It is not wise that it should share, in any degree, in the

actual administration of affairs. The majority must govern. The useful sphere of duty for the minority is to watch the governing party, to expose its wrong-doing, if any, to restrain it by this vigilance and exposure. Just so far as the minority is admitted to a share in the actual administration of government, to a share in executive duties, just so far is it weakened for the performance of its proper duty—that of vigilance over those in authority, just so far is its inclination to be vigilant lessened. It is only a minority out of power that will be faithful to the duties of a minority. Every member of the minority who is admitted to take part in the actual administration of public affairs, and all of his party whom he can influence, naturally acquire a tendency to defend the administration of which he forms a part, and where they ought to be exercising a restraining power by their vigilance, they are often found helping to cover up things that need exposure. An administration that has its corps of defenders in both political parties will be much more likely to continue improper practices than if it relies for defence only on its own party friends, and feels that the opposite party is ready, in solid ranks, promptly to assail it if guilty of wrong-doing. I believe the clear, complete, and undivided responsibility of one or other of the political parties into which people, in all free communities, divide themselves, is essential to good government. For vigilance on the part of the people themselves, this bill proposes to substitute the services of a few individuals put into partial power by the minority as watchers, which will tend to make the people rely on these few, and indifferent to their own duty of vigilance in their own affairs. These few hired watchers may become screens for errors and neglect of duty on the part of their associates and themselves.

The government of the majority is the only government recognized by the Constitution of the United States and of the State. The majority controls and must control in legislation, and ought to be solely responsible for administration. When its representatives prove recreant to the trusts committed to them, a vigilant minority is quick to take advantage of the fact, and in turn it becomes the majority. The existence of a strong, vigilant minority, which, not being a sharer of power, has no motive to defend those in power, but every motive to expose them when doing wrong, is quite as essential to honest and faithful administration of the affairs of the republic as is the existence of the majority in whose hands the actual management of public affairs is placed. This cumulative method for appointing heads of departments may have the effect of fatally lessening, at once, the sense of responsibility on the part of the majority and the vigilance of the minority. The majority rule prevails not only in the Governments of the United States and of the State, but also in all municipal and moneyed corporations. To substitute in its place a plan like the one proposed, untried as yet anywhere, in the great City of New York, seems to me to be a most dangerous political experiment.

(*From the New York Times, May* 2, 1872.)

GOV. HOFFMAN AND MINORITY REPRESENTATION.

To the Editor of the New York Times:

In his veto of the charter on the 30th ult., Gov. Hoffman defines the cumulative vote as a novel method, "whereby a minority can elect its candidate or candidates against the will of the majority in the district," and then says of the proposed application of this method to our municipal elections: "A City of a million inhabitants is not the place for trying experiments in government, especially an experiment which many of the

most thoughtful of our people believe to be visionary, impracticable, and unconstitutional."

Now, in his first annual message of the 5th of January, 1869, this same Gov. Hoffman, after referring to the necessity of one executive head in New York and Brooklyn, said: "If, with this as the fundamental idea, a plan shall be devised which will give to the political minority within a city a just representation in its councils, we shall, doubtless, secure better results in municipal government than have ever before been attained." In his annual message of the 2d of January, in this year, his Excellency again touches on the subject of a proper form of government for this city, and says: "If any plan can be devised for giving in the legislative branch of the City Government, by election, a just and proportionate representation to the minority, it would be a wholesome improvement." In the light of these repeated indorsements of minority representation, it is strange the Governor should have vetoed the charter because it provides for minority representation. If that be an experiment, he has twice urged the propriety of trying the experiment; if it be visionary, why say, as in his message of January 2, 1872, that "it would be a wholesome improvement"? If impracticable, wherefore refer to it, as in his message of January 5, 1869, as likely to "secure better results in municipal government than have ever before been obtained"? If unconstitutional, how comes it that his Excellency has been pressing it upon the attention of the Legislature since 1869?

With all deference to his Excellency, minority representation is *not* a novel method—an experiment, visionary, impracticable, and unconstitutional. It is not novel, because both Gov. Hoffman and his predecessor, Gov. Fenton, have familiarized the public mind with it in their State papers; it is not an experiment, because it has been tried at two general elections throughout the State, to wit: the election of delegates at large to the Constitutional Convention, April 23, 1867, and the election of the present Court of Appeals, May 17, 1870; nor impracticable, because both of those elections went off well, and resulted in the choice of good delegates and good Judges; nor can it be said that minority representation is unconstitutional, when the popular vote, which is the ultimate arbiter of Constitutions, not only thus twice approved of that principle, but on the 2d of November, 1869, met the issue direct, and emphatically decided in its favor. On that day it was a question whether the Court of Appeals should be chosen by minority representation or in the old way, and the popular vote was that the election should be had by the former mode.

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